

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
CASE NO. 23-cv-20727-ALTMAN/Reid

4 RYAN BRESLOW, ALEX FINE, and JON Miami, Florida
5 GORDON,
6 Plaintiffs, May 30, 2023
7 vs. 11:10 a.m. - 3:32 p.m.
8 MARK PHILLIPS and BENJAMIN REED,
9 Defendants. Pages 1 to 175

10 PRELIMINARY INJUNCTION HEARING CONTINUED
11 BEFORE THE HONORABLE LISETTE M. REID
12 UNITED STATES MAGISTRATE JUDGE

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1 (Call to the Order of the Court.)

2 THE COURT: Good morning. Please be seated. So this
3 is the screen that -- okay. All right. We want to be as
4 efficient as we can, moving through the matters that we have to
5 take care of. I know we were -- we had Mr. Phillips on the
6 witness stand and the -- you were about to do your
7 cross-examination.

8 MR. BERG: Yes, Your Honor, that's right.

9 THE COURT: Okay. So let's start with that. And then,
10 Mr. Singh, you had some witnesses that you wanted to present?
11 Or what did you want to do next?

12 MR. SINGH: Yes, Your Honor. We have Benjamin Reed in
13 the courtroom, ready to resume his examination. The other
14 witnesses we have prior brought to the two hearings were unable
15 to come today. We would ask that we would be permitted to
16 submit declarations and move their live testimony, as a
17 declaration was submitted for one of plaintiffs' witnesses in
18 lieu of live testimony.

19 THE COURT: Okay. Any problem with that?

20 MR. BERG: Yes, Your Honor. Whoever they're going to
21 move a declaration to, we would be able to cross, and we're not
22 going to be able to do that here. And it -- just as a -- a
23 point of illustration, I think defendants' request to continue
24 Mr. Reid's examination should not be allowed, given the already
25 disproportionate time allocation that have been afforded to

1 defendants. And I think to illustrate that, I have a printout
2 of the time distribution that's been undergoing with this
3 hearing so far, if you would like to see it. I think that
4 might put things into focus.

5 THE COURT: Well, let's start with the proposition
6 that, of course, as -- you are the plaintiff, so you have the
7 burden of proof, and we understand that. And you have a lot to
8 prove in order to get a preliminary injunction. So I'm aware
9 of that. But, again, I don't want to spend all the time on the
10 argument, if we can get through the -- the witness. We do want
11 to hear from Mr. Phillips, of course, very important witness.
12 And if we have time after that, we will deal with everything
13 else. But you need to make your case.

14 MR. BERG: Yes, Your Honor.

15 THE COURT: And there will be a trial, if we get to
16 that point, where all witnesses that are necessary to prove the
17 case will be presented.

18 MR. BERG: Your Honor, my point simply is defendants
19 have had six hours of courtroom time and defendants -- or
20 plaintiffs have had three hours and forty minutes. It's a
21 pretty tremendous disparity, given that it's our elevated
22 burden. And so what we would propose here is Mr. Reid's direct
23 is over. We take an hour for Mr. Phillips. We take
24 10 minutes, 15 minutes of cross of Mr. Reed, and then we move
25 right into closings because there is a lot of evidence to

1 summarize.

2 MR. SINGH: Your Honor, two points. We haven't
3 reviewed the timing that Counsel has prepared. And I do
4 understand that as we were taking the examinations, we were
5 interrupted for many legal arguments on many legal issues,
6 including the privilege issue and other issues that arose. So
7 we can't -- we can't comment on the timing without
8 understanding that breakdown.

9 Second, on the declarations. We didn't have an
10 opportunity to cross-examine Mr. Jango, which I believe is his
11 internet handle. Their declaration -- Jango's declaration was
12 admitted by the Court without an opportunity for defendants to
13 cross-examine that individual. And so we would similarly posit
14 that we be permitted to submit declarations even though
15 plaintiffs don't have the opportunity to cross-examine those
16 witnesses.

17 THE COURT: Okay. I will hold that issue in abeyance
18 so we can move forward.

19 MR. BERG: In response, Your Honor, we presented that
20 issue through Mr. Gordon, and defendants had an opportunity to
21 cross Mr. Gordon on it.

22 THE COURT: All right. So let's bring Mr. Phillips
23 back.

24 Mr. Phillips, if you can come forward. Remember that
25 you are still under oath. Please have a seat.

1 (Discussion off the record regarding camera for Zoom.)

2 MR. BERG: This is Christopher Berg for plaintiffs.

3 (Discussion off the record regarding camera for Zoom.)

4 THE COURT: Where is the camera that is supposed to be
5 looking at the podium? It's not on. It's just not on. I see
6 only the three squares. I have a feeling that's what she is
7 seeing as well.

8 Okay. So then I will make sure that everybody at least
9 states who they are before they speak. All right.

10 THE STENOGRAPHER: Okay.

11 THE COURT: And then maybe, meanwhile, we will get
12 someone from IT to turn that camera on for you. Okay?

13 THE STENOGRAPHER: Thank you so much.

14 THE COURT: All right.

15 So, Mr. Berg, so let me have counsels make their
16 appearance. And, Mr. Berg, you did.

17 Mr. Singh, go ahead.

18 MR. SINGH: Good morning. Nitoj Singh on behalf of
19 defendants.

20 THE COURT: Okay. And go ahead, Mr. -- I'm sorry.

21 MR. MURDOCK: Good morning, Your Honor. Jesse
22 Franklin-Murdock also for defendants.

23 THE COURT: Mr Murdock. Okay.

24 MR. KUSSMAN: Good morning, Your Honor.
25 Benjamin Kussman on behalf of plaintiffs.

1 THE COURT: Okay. Speak into the microphone.

2 MR. KUSSMAN: Benjamin Kussman on behalf of plaintiffs.

3 THE COURT: Okay.

4 MR. IGLESIAS: Good morning, Your Honor. Andrew
5 Iglesias also on behalf of plaintiffs.

6 THE COURT: All right. Thank you.

7 All right. Counsel, please proceed.

8 MR. BERG: Your Honor, rather than interrupt the
9 cross-examination, there is one legal issue that I just would
10 like to raise now, as I know it's going to draw an objection.
11 I'm about to seek to introduce Mr. Phillips' former conviction.
12 And we want to just lay out a foundation for why it's
13 appropriate under Rule 609.

14 THE COURT: Okay. Go ahead.

15 MR. MURDOCK: Under 11th Circuit precedence,
16 United States vs. Cohen, in Rule 609, evidence of a conviction
17 involving untruthfulness is automatically admitted. The
18 11th Circuit measures that 10-year period from the date of the
19 release to the date of the proceeding where the witness
20 testifies. That's US v. Cohen, 544 F.2d 781.

21 The start of this PI hearing was on March 28, 2023.
22 The paperless order from Judge Altman continuing that hearing
23 reads the following preliminary injunction hearing was held on
24 March 28th. Mr. Phillips was released from confinement on
25 March 29, 2013. So the PI hearing began one day before the

1 10-year period lapsed. So this evidence should come in under
2 609(a).

3 609(b) also applies here. That standard is, a
4 conviction that's older than 10 years is admitted if the
5 probative value substantially outweighs potential prejudice;
6 that requires looking at specific -- specific circumstances to
7 make that determination.

8 United States vs. Pritchard, 11th Circuit, 1992, lays
9 out the factors for considering that. The circumstances here
10 are the very similar conduct that was at issue. The issue of
11 false invoices was in the prior case, and the issue of the use
12 of a law firm to facilitate the deceptive scheme was also at
13 issue.

14 You also consider the impeachment value of the prior
15 crime. That's strong here because the prior crime involved
16 dishonesty. The convictions were for wire fraud and money
17 laundering.

18 The point of the time of the conviction's subsequent
19 history. If the Court considers the demarcation date, then
20 we're within the -- as the PI hearing, then we're within a
21 10-year window and we don't need to do this analysis. But even
22 if you don't, that means the demarcation date is about two
23 months past the 10-year marker, okay?

24 You also need to consider the similarity between the
25 past crime and the charged crime. We have gone over those

1 points. Also consider the importance of the defendants'
2 testimony, which is critical here because it really is the
3 principal source of evidence that counters plaintiffs'
4 evidence.

5 And then, of course, the centrality of the credibility
6 issue. That's critical here because the question is of honesty
7 in pursuit of financial self-interest.

8 So we would submit, Your Honor, that under all of the
9 factors under Pritchard, the testimony -- the evidence is
10 admissible under 609(b).

11 THE COURT: Okay. Any objection, Mr. Singh?

12 MR. SINGH: Yes, Your Honor. We would object. As the
13 Court just heard, the conviction and the release is more than
14 10 years prior to today's date. And the prejudicial value
15 greatly exceeds the probative value here. We further note that
16 Counsel has offered up that there are similarities between the
17 two cases, but none of that is in evidence, none of that is at
18 issue, and the Court is unable to make a determination without
19 that information. But simply releasing that information and
20 having it heard in this courtroom would be prejudicial.

21 THE COURT: Okay. So the Court will overrule that
22 objection. I find that because the witness will be testifying,
23 his credibility is at issue, and any prior offense that has to
24 do with fraud which relates to truthfulness, would be relevant,
25 in any event. So the evidence is admitted.

1 MR. BERG: Thank you, Your Honor. Based on that
2 ruling, I would like to move into evidence Exhibit 139.

3 Mr. Phillips, in Volume I of plaintiffs' exhibits --

4 THE COURT: Ms. Melton, are you able to hear us --

5 THE STENOGRAPHER: Yes.

6 THE COURT: -- or see the person at the podium?

7 THE STENOGRAPHER: Yes, ma'am, I can.

8 THE COURT: Do I have the right set of exhibits that
9 you're referring to?

10 MR. BERG: Yes, Your Honor. It's Volume II of
11 Plaintiff's Exhibits. 139.

12 THE COURT: Okay. I have it.

13 MR. BERG: Thank you, Your Honor.

14 Do you have it, Mr. Phillips?

15 THE WITNESS: This is Mr. Phillips speaking.

16 Yes.

17 THEREUPON:

18 MARK PHILLIPS,
19 a witness called by the Defendant, having been duly sworn
20 previously, testified as follows:

21 CROSS-EXAMINATION (CONTINUED)

22 BY MR. BERG:

23 Q. Mr. Phillips, you were previously convicted of four counts
24 of wire fraud and two counts of money laundering in the
25 U.S. District Court of the Western District of Washington;

1 correct?

2 A. Yes.

3 Q. Before you, as Exhibit 139, is a copy of the amended
4 judgment that was ultimately entered against you; is that
5 correct?

6 A. Yes.

7 Q. In the middle of the page where it says "Nature of
8 Offense," it lists wire fraud and money laundering; correct?

9 A. Yes.

10 Q. The District Court imposed a sentence on you of 40 months
11 imprisonment, three years supervised release, and \$100,000 in
12 restitution; correct?

13 A. Yes.

14 Q. Okay. If you could put that to the side.

15 You were a defendant in a civil litigation in Washington
16 State Superior Court in the case called Arnold v. Phillips; is
17 that correct?

18 A. Yes.

19 Q. That case number is 10-2 -- 10227-2; right?

20 A. I don't recall the specific.

21 Q. In that case you formed a company called Banana Corporation
22 into which plaintiff, Robert M. Arnold, invested \$5.5 million
23 and procured a 15 percent ownership interest; right?

24 A. Yes.

25 Q. You owned the other 85 percent?

1 A. Yes.

2 Q. The Court in that case granted summary judgment against you
3 on liability for, among other things, breach of fiduciary duty,
4 conversion, and embezzlement; right?

5 A. Yes.

6 Q. A bench trial was eventually held in that case; right?

7 A. Yes.

8 Q. And you testified at that trial?

9 A. Yes.

10 Q. The Court made a factual finding that your testimony was
11 not credible; is that right?

12 A. Yes.

13 Q. In 2019, you were a party to divorce proceedings in
14 Washington state court; right?

15 A. Yes. I don't recall the specific year.

16 Q. The Court held a bench trial in that proceeding; is that
17 correct?

18 A. Yes.

19 Q. You provided testimony in connection with those
20 proceedings?

21 A. Yes.

22 Q. In finding of fact, 80, the Court expressly found that much
23 of your testimony was not credible; right?

24 A. I don't recall the specifics.

25 Q. Do you recall there being a finding that your testimony was

1 not credible?

2 A. I don't recall that specific finding.

3 Q. Mr. Phillips, you testified that you worked as a contractor
4 at the SEC in this proceeding; do you remember that?

5 A. As a -- as an employee of Info Trend, which was a
6 subcontractor to the SEC.

7 Q. You were actually employed as a -- by Info Trend, which is
8 a subcontractor to ITS Agile LLC; right?

9 A. I don't know the relationships between the different
10 entities.

11 Q. If we go to Volume I of plaintiffs' exhibits.

12 Now, you submitted a declaration in this case; correct?

13 Dated March 16, 2023?

14 A. Excuse me. Which exhibit?

15 Q. We will get there. March 16, 2023; correct? You submitted
16 a declaration in this case dated March 16, 2023; correct?

17 A. I will take your word for that.

18 Q. All right. And you were being truthful when you submitted
19 that declaration; correct?

20 A. Yes.

21 Q. Okay. Turn to Exhibit 73, please. Let me know when you
22 are there.

23 A. Yes.

24 Q. There you wrote, "I was employed by Info Trend

25 Incorporated, a subcontractor to ITS Agile, which was a prime

1 contractor to the SEC." Do you see that?

2 A. Yes.

3 Q. Is that correct?

4 A. Yes.

5 Q. You wrote in your declaration that, "Plaintiffs plan to
6 develop a decentralized autonomous organization to facilitate
7 social and environmental impact groups"; correct?

8 A. Yes.

9 Q. "But plaintiffs lacked the technical ability to develop and
10 manage the contemplated DAOS creation and needed your help for
11 the task"; right?

12 A. Yes.

13 Q. "The GitBook is a document that describes MovementDAO's
14 policies, goals, and governance mechanisms"; correct?

15 A. It was intended to communicate the goals, yes.

16 Q. It's a document that describes MovementDAO's policies,
17 goals, and governance mechanisms; right?

18 A. Yes.

19 Q. GitBook was MovementDAO's initial governing document;
20 correct?

21 A. Yes.

22 Q. GitBook functioned much like a set of corporate bylaws;
23 right?

24 A. I don't think so.

25 Q. Let's go to Exhibit 73, paragraph 20, second sentence from

1 above -- from the bottom.

2 "Much like a set of corporate bylaws, the GitBook was
3 intended to function as Movement's initial government
4 document." And further on -- apologies.

5 We will move on.

6 Let's go to paragraph 24 of your declaration. Last
7 sentence of that paragraph you wrote, "MovementDAO's
8 relationship with its members or contributors was governed by
9 inter alia GitBook"; is that right?

10 A. Yes.

11 Q. That includes you; right?

12 A. Right. As a member?

13 Q. As -- "MovementDAO's relationship with its members or
14 contributors was governed by GitBook." The question is, was
15 the GitBook governing you?

16 A. Yes.

17 Q. You testified that after January 1, 2022, you regarded your
18 relationship with plaintiffs as equals or members in
19 MovementDAO; right?

20 A. Yes.

21 Q. You also testified that you believed you were working for
22 MovementDAO, starting January 1, 2022, onward; right?

23 A. Yes.

24 Q. Throughout your work on MovementDAO, you would have -- you
25 had conversations with Mr. Breslow about the project; right?

1 A. Yes.

2 Q. And when you had these conversations, you were truthful
3 with him; correct?

4 A. Yes.

5 Q. You were not trying to deceive him when you spoke with him
6 or texted with him; right?

7 A. No.

8 Q. On July 30, 2022, you thanked him for being an awesome
9 boss, and that you just want to work and add value and protect
10 his interests; isn't that right?

11 A. I recall writing something to that effect.

12 Q. You led Mr. Breslow to believe that he was in charge of the
13 MovementDAO project, didn't you?

14 A. No.

15 Q. Why did you call him your boss?

16 A. I was showing deference. He was the largest contributor to
17 MovementDAO, the nonprofit. So I was absolutely showing
18 deference to someone who contributed that much money, as well
19 as that much faith in having me work on its development.

20 Q. So are you now saying -- is it your testimony now that he
21 was not your boss?

22 A. Not after January 1st of 2022.

23 Q. Didn't you write that text in August 2022?

24 A. I did.

25 Q. So was he your boss in August of 2022, or was he not?

1 A. I refer to all the members of MovementDAO as my boss.

2 Q. Really? Okay.

3 On March 13, 2022, you told Mr. Gordon that you were
4 executing on Ryan and your -- Mr. Gordon's -- behalf, didn't
5 you?

6 A. I did.

7 Q. So you testified that on January 1, 2022, you considered
8 yourself equals with plaintiffs, but two months later you were
9 telling Mr. Gordon you were doing things on Mr. Breslow and
10 Mr. Gordon's behalf; right?

11 A. I think that comment is taken out of context. They asked
12 me to do very specific things like write an NFT contract or
13 review some information.

14 Q. Okay. And you continued four months later, in July 2022,
15 when you told Mr. Breslow you wanted to protect his interest
16 and referred to him as "an awesome boss"; right?

17 A. So you're referring to the first comment?

18 Q. Yeah, let's pull that up. Let's go to Exhibit 135, which
19 is in Volume I of the plaintiffs' exhibits. And I misspoke
20 earlier. I referenced this as August 2022. Exhibit 135 was
21 submitted in July 30 of 2022. Are you there?

22 A. Exhibit 135?

23 Q. Correct.

24 A. Yes.

25 Q. It says here, "Thank you for being an awesome boss. Very

1 perfect. Just want to work and add value and protect your
2 interests." That's what you wrote; right?

3 A. Yes, per my comment, this is about his philanthropic
4 efforts for PeaceDAO and providing funding for displaced
5 Ukrainian war victims.

6 Q. I mean, where does it say it's about Ukrainian war victims
7 in this text?

8 A. That image is specifically about PeaceDAO which he had
9 asked myself and my wife to create a set of NFTs that he could
10 distribute to friends or people interested in contributing.

11 Q. Were you paid for your work with PeaceDAO?

12 A. Excuse me?

13 Q. Were you paid for your work with PeaceDAO?

14 A. I was paid for MovementDAO.

15 Q. Were you paid for your work with PeaceDAO?

16 A. I don't recall.

17 Q. You testified that the GitBook says that it can be modified
18 through the MIPs; right?

19 A. I did.

20 Are we done with this exhibit?

21 Q. We are.

22 Where in the GitBook does it talk about how an MIP can
23 modify the Gitbook's terms?

24 A. I believe in the Guiding Principles, the terms of service,
25 the code of conduct, have statements that say that the terms

1 can be modified.

2 Q. Mr. Phillips, those aren't in the GitBook, are they?

3 A. No.

4 Q. So your testimony was that the GitBook contained a
5 provision that said the GitBook could be modified; right?

6 A. The GitBook contains a provision. I don't recall
7 specifically where that says that the DAO is member managed and
8 that the members can propose changes.

9 Q. Well, I've got an OCR version of Exhibit 6 which is the
10 GitBook. Let's see if we can Control-F and see if there is any
11 section here that will help us help you remember. I will
12 search for the word "modify."

13 Is this the section you are talking about, by "modifying
14 these techniques to handle the idiosyncrasies"?

15 A. Never.

16 Q. How about this one? "Note that we reserve the right to
17 modify the terms at any time at our sole discretion."

18 A. That sounds like something that MovementDAO can reserve the
19 right to modify the terms.

20 Q. It's problematic, though, don't you think? Because up here
21 it refers to "terms" as the terms of use in this sentence here.
22 Do you see that?

23 A. I'm sorry. I don't understand the question.

24 Q. The section here, it says terms of use, up at the top of
25 the page. Do you see that?

1 A. I do.

2 Q. Below that it says, "Welcome MovementDAO. Please read
3 these terms of use," and it defines terms of use as terms. Do
4 you see that?

5 A. Yes.

6 Q. And further down the page it says: "Note that we reserve
7 the right to modify the, capital T, 'Terms.'" Do you see that?

8 A. Yes.

9 Q. So this isn't referring to the GitBook. This was referring
10 specifically to these terms of use; isn't that right?

11 A. Yes.

12 Q. All right.

13 A. But perhaps searching for a change. Or --

14 Q. How about -- how about modify?

15 MR. SINGH: Your Honor, objection. Counsel has asked
16 the witness where in the agreement that specific language
17 exists. The witness has asked for a specific search to help
18 find that language, and counsel has ignored that request. I
19 just want to note that for the record.

20 THE COURT: Well, when you cross-examine, you can
21 certainly -- when you recross, you can bring that up.

22 BY MR. BERG:

23 Q. Alternate -- is that it? Alternate DNS? Is that the
24 section?

25 A. I'm sorry. What's the question?

1 Q. Is that the section that you're referencing, relating to
2 modifying the GitBook through MIP proposals?

3 A. Well, that suggestion is -- changes or members, perhaps,
4 might be a better search term.

5 Q. And your client -- and your counsel will be able to do that
6 on cross. I'm asking for the word "alter." Is this the
7 section?

8 A. Is that a section that states the word "alter"?

9 Q. Is this the section that you're referring to when you said
10 there is a section in the GitBook that says MIP proposals can
11 alter terms of the GitBook?

12 A. I don't recall the specific location.

13 Q. I know. But I'm asking you if this is the specific
14 location.

15 A. No, I don't believe that is the specific section.

16 Q. How about this one either, alternate ES?

17 A. No.

18 Q. "Alternate approaches, and other relevant facts to the
19 implementation," not this one either; right?

20 A. Would you scroll up, please, so I could see.

21 Proposal -- "fleshes out the specification by describing
22 what motivated the design or particular decisions were made,
23 alternative approaches, or other relevant facts..."

24 So this section describes a proposal format in which the
25 contents --

1 Q. Mr. Phillips, does this show that a proposal can alter the
2 GitBook?

3 A. This shows how to make a proposal --

4 Q. Mr. Phillips, answer my question. Does this show that the
5 proposal can alter the GitBook?

6 A. No.

7 Q. Okay. How about this one?

8 A. No.

9 Q. The GitBook doesn't say it can be amended, altered, or
10 changed by a proposal, does it?

11 A. I believe there is a section that states that the community
12 members managed the DAO and that can propose changes.

13 Q. You authored a series of proposals in August of 2022 that
14 you posted on MovementDAO's Snapshot page; right?

15 A. I was a coauthor, but I wasn't the primary author.

16 MR. BERG: I would like to introduce Exhibit 9 into
17 evidence.

18 THE COURT: Mr. Singh, any objection?

19 MR. SINGH: No objection.

20 MR. BERG: That exhibit will be found in Volume I,
21 plaintiffs' exhibits.

22 THE COURT: The exhibit is admitted.

23 (Plaintiff Exhibit 9 was received in evidence.)

24 BY MR. BERG:

25 Q. Please let me know when you are there, Mr. Phillips.

1 A. Yes.

2 Q. This document is MIP 1, a proposal you coauthored in August
3 of 2022 that sought to adopt a document called Governance
4 Process; right?

5 A. Yes.

6 Q. Please turn to page 258. The first sentence of the
7 governance process document, the top of this page says, "The
8 DAO is governed by its community as expressed through MAIP NFT
9 voting"; right?

10 A. Yes.

11 Q. That reference to MAIP NFTs, that's not a reference to MOVE
12 tokens; correct?

13 A. MAIP stands for Movement AIP, non-fungible token so it
14 does -- it is a MOVE token.

15 Q. It's not a reference to "\$ M-O-V-E" token; right?

16 A. No, it's not.

17 Q. Okay. Go to page 259. At the top of the page there is a
18 reference to the DAO's consensus base. Do you see that?

19 A. Yes.

20 Q. That's a reference to Movement's Snapshot page; correct?

21 A. Yes.

22 Q. At the time you posted Exhibit 9 as a proposal on the
23 MovementDAO's Snapshot page, is it your contention that
24 Snapshot voting governed the MovementDAO's actions?

25 A. I wasn't the one who posted this. What was the question?

1 What was the rest of the question?

2 Q. At the time of this proposal was posted by whoever, is it
3 your contention that Snapshot voting governed MovementDAO's
4 actions?

5 A. Yes.

6 Q. \$MOVE tokens had not been issued at the time Snapshot
7 voting on Exhibit 9 occurred; correct?

8 A. No. However, the GitBook did state that --

9 Q. Mr. Phillips, just answer my question. Thank you.

10 To this day, \$MOVE tokens still have not issued; right?

11 A. That's correct.

12 Q. So no one holds a \$MOVE token; correct?

13 A. That's correct.

14 Q. Okay. Under that governance process -- which you authored;
15 correct?

16 A. I was a coauthor, but I wasn't the primary author, "Philip
17 V."

18 Q. All right. Under the governance process in this proposal,
19 you did not -- you do not need a \$MOVE token to participate in
20 the MovementDAO's Snapshot voting; right?

21 A. No.

22 Q. Okay. Please go to Exhibit 6 in the binder.

23 A. Yes.

24 Q. Please turn to page 89. Are you there?

25 A. Yes.

1 Q. All right. Under the heading "Staking," second paragraph,
2 it says, "Only staked \$MOVE holders will be able to participate
3 in Snapshot governance." Did I read that correctly?

4 A. You did.

5 Q. So the governance process that you coauthored is
6 inconsistent with this provision of the GitBook; is that
7 correct?

8 A. Yes.

9 Q. Okay. I would like you to turn to Exhibit 8, please. This
10 is also in plaintiffs' exhibits, Volume I. Let me know when
11 you are there.

12 A. Yes.

13 Q. This is MIP 0, a proposal you coauthored in August 2022
14 that sought to adopt a document called "Guiding Principles";
15 correct?

16 A. That's correct.

17 Q. Go to page 192. Let me know when you are there.

18 A. Yes.

19 Q. The bottom of the page says "the DAO shall not create any
20 liquidity pools"; is that correct?

21 A. That's correct.

22 Q. All right. Let's go back to Exhibit 6. Please turn to
23 page 60. Are you there?

24 A. Yes.

25 Q. The middle of the page it says: "Movement endowments

1 generate ongoing revenue through," paragraph 2, "deploying
2 liquidity pools to earn fees." Did I read that correctly?

3 A. That's correct.

4 Q. Okay. So the Guiding Principles is inconsistent with this
5 provision of the GitBook?

6 A. They mean different things.

7 Q. They both say liquidity pools; don't they?

8 A. They both use the word "liquidity pools."

9 Q. Okay.

10 A. The reference on page 60 means deploying two different
11 types of tokens and earning fees during the slots. The
12 reference in the Guiding Principles refers to creating
13 liquidity in -- for the MOVE token, which was at the center of
14 how we were making decisions on not making a token that wasn't
15 an offering of an unregistered security.

16 Q. Okay. Same page, the heading is called "Endowment Basics."
17 Do you see that?

18 A. Yes.

19 Q. First -- first line says: "The purpose of the endowment is
20 to earn via various defy protocols in order to produce a yield
21 for the DAO."

22 Is that -- is that -- did I read that correctly?

23 A. Yes.

24 Q. And below that, down the page, there is a list of eight
25 examples of how the Movement endowment might generate ongoing

1 revenue; right?

2 A. Yes.

3 Q. Okay. How much revenue has the MovementDAO endowment
4 generated since February 2022?

5 A. I don't know the specific number.

6 Q. Less than \$500,000?

7 A. Less than \$500,000.

8 Q. Less than \$200,000?

9 A. Perhaps less. Maybe 200,000, I don't know. But --

10 Q. That's fine.

11 Let's go to Exhibit 30 in your binder.

12 MR. BERG: Your Honor, I would like to introduce
13 Exhibit 30 into evidence.

14 THE COURT: Mr. Singh, any objection?

15 MR. SINGH: No, no objection.

16 THE COURT: Okay. It's admitted.

17 MR. BERG: Thank you, Your Honor.

18 (Plaintiff Exhibit 30 was received in evidence.)

19 BY MR. BERG:

20 Q. Are you there, Mr. Phillips?

21 A. Yes.

22 Q. This is a proposal called MIP 21 posted on the MovementDAO
23 Snapshot page that you coauthored in January 2023; right?

24 A. Yes.

25 Q. And it proposes to authorize the transfer of 5.3 million

1 Dai for development expenses; correct?

2 A. Yes.

3 Q. Let's go to page 65 of Exhibit 6. Let me know when you are
4 there.

5 A. Excuse me. Page 65 of Exhibit 6?

6 Q. Exhibit 6.

7 A. I'm here.

8 Q. Under the heading "How Does an Endowment Work
9 Logistically?" there is a -- in the second paragraph the
10 GitBook says, "MovementDAO has a pool of capital called an
11 endowment. Money in the endowment cannot be spent. The
12 endowment's yield funds the platform"; right?

13 A. It does say that.

14 Q. Okay. Let's go -- so when the -- so when the Snapshot
15 proposal, MIP 21, Exhibit 30, was ratified in January of 2023,
16 the funds that were transferred out of the endowment pursuant
17 to that proposal were not from yield generated by the
18 endowment, but were funds from the endowment itself; correct?

19 A. That's correct.

20 Q. In August 2022, you authored a proposal, excuse me,
21 coauthored a proposal on the Movement Snapshot page that
22 proposed that "the DAO is not entitled to keep any records
23 concerning legal accounting or other affairs, and aside from
24 the above public information the DAO shall not be required to
25 maintain any additional records"; is that correct?

1 A. I'm sorry. Excuse me. On page 65 --

2 Q. That's not -- that's not in this. I'm just trying to move
3 things along a little faster. But if you don't recall, we can
4 go to the document.

5 A. All right. If you could repeat the question. I was
6 just --

7 Q. Let's just go to Exhibit 8 in the binder.

8 A. -- pointing out that it says "fully managed by its token
9 holders."

10 Q. Exhibit 8 --

11 MR. BERG: And I would like to move to strike that
12 response as nonresponsive.

13 THE COURT: Since I'm the only one here and I have
14 heard it, we will just move on, so that I can hear all of the
15 evidence.

16 MR. BERG: Sure.

17 BY MR. BERG:

18 Q. Let's go to Exhibit 8, please.

19 A. Exhibit 8? I'm here.

20 Q. Exhibit 8. Let's go to page 194, top of the page. Let me
21 know when you are there.

22 A. Yes.

23 Q. It says: "The DAO is not entitled to keep any records
24 concerning legal, accounting, or other affairs, and aside from
25 the above public information, the DAO shall not be required to

1 maintain any additional records." Do you see that?

2 A. Yes.

3 Q. And the "above public information" is a reference to the
4 Gnosis sig wallet, Etherscan records, and Snapshot page; right?

5 A. No. It -- it referred to -- as much as possible, we made
6 all the documents public, so in a public Google drive or a push
7 to Snapshot. So the intention was to ensure that there was no
8 information asymmetry, or that all information was made public,
9 to the -- to the best --

10 Q. In that section, there is -- the top of that section is
11 called "Information Rights"; right?

12 A. Yes.

13 Q. It says: "Member shall have access to all information
14 concerning operational and financial affairs of the DAO via the
15 Gnosis multisig wallet, Etherscan records, and Snapshot; right?

16 A. Yes.

17 Q. Okay. So in the following paragraph, when it says "the
18 above public information," it's only referring to those three
19 things; correct?

20 A. Yes. But this GitBook is published somewhere.

21 Q. This is not a GitBook, Mr. Phillips.

22 A. Or this --

23 Q. This proposal, you coauthored, this is MIP 0.

24 A. Yes.

25 Q. Okay. So just to make sure we're clear, the above public

1 information referred to in 194 is a reference to the Gnosis sig
2 wallet, the Etherscan records, and Snapshot; correct?

3 A. That's what the statement says, yes.

4 Q. That's what it says; right?

5 A. Yes.

6 Q. And this was a proposal that you coauthored; right?

7 A. Yes.

8 Q. And this was a proposal that was passed through a Snapshot
9 vote; right?

10 A. Yes.

11 Q. Okay. Let's go to Exhibit 12 in the same binder. Please
12 turn to page 302. Are you there?

13 A. Yes.

14 Q. Under the heading "Ratification of Future Disbursements,"
15 it says that: "The DAO ratifies and approves a \$100,000
16 spending threshold for service providers, including
17 tankbottoms, whereby prior verbal approval, initial sign-ins
18 for governance approval is not necessary to spend up to
19 \$100,000 worth of funds in cryptographic assets"; is that
20 correct?

21 A. Yes.

22 Q. Tankbottoms is you; correct?

23 A. Yes.

24 Q. I would like you to turn to Tab 11 in that binder.

25 MR. BERG: I would like to move Tab 11 into evidence as

1 Exhibit 11.

2 MR. SINGH: No objection, Your Honor.

3 THE COURT: So moved. Admitted.

4 (Plaintiff Exhibit 11 was received in evidence.)

5 BY MR. BERG:

6 Q. This is MIP3; is that right?

7 A. Yes.

8 Q. You coauthored this proposal in August of 2022; correct?

9 A. Yes.

10 Q. Okay. Let's turn to 290. Let me know when you are there.

11 A. Yes.

12 Q. At the top of the page, the first paragraph, it said:

13 "Resolved further, authorizes the use of DAO endowment funds to
14 refund expenses that you incurred"; correct?

15 A. Yes.

16 Q. The proposal doesn't provide any details about what those
17 expenses were or how they related to MovementDAO business, does
18 it?

19 A. No. The proposal doesn't.

20 Q. Mr. Phillips, you testified that you created and maintained
21 the DAO-lawfirm ENS; correct?

22 A. That's correct.

23 Q. By "maintained," you mean you used the cryptocurrency
24 address ending in 0085 which was registered to the ENS
25 DAO-lawfirm; right?

1 A. Yes.

2 Q. You testified that plaintiffs knew that you were using the
3 DAO-lawfirm address to sign transactions; correct?

4 A. Yes.

5 Q. Now, in that testimony, you weren't saying that plaintiffs
6 knew you were signing transactions with DAO-lawfirm without
7 receiving direction or consultation with Mr. Yurchak; right?

8 A. Sorry. I wasn't -- I was signing without receiving
9 direction or consultation?

10 Q. You told plaintiffs you would use DAO-lawfirm ENS in
11 coordination with Mr. Yurchak; right?

12 A. Yes, it was -- yes.

13 Q. So plaintiffs believed you would be using DAO-lawfirm.eth
14 with Mr. Yurchak's signoff; right?

15 A. Yes.

16 Q. Let's go to Exhibit 6, page 88. Let me know when you are
17 there.

18 A. Yes.

19 Q. Under "How do I know the token launch is fair?,"
20 paragraph 2, the GitBook states: "A registered law firm acts
21 as a signatory of the funds wallet. They therefore owe a
22 fiduciary duty to the movement and will employ their expertise
23 to ensure that no funds are moved in violation of the movement
24 rules and no requests for funding will be indicative of
25 fraudulent activity."

1 Did I read that accurately?

2 A. Yes.

3 Q. So this language in the GitBook would also lead plaintiffs
4 to understand that Mr. Yurchak would be reviewing requests for
5 funding; right?

6 A. Yes. I just wanted to share these MIPs with him, yes.

7 Q. Like the ones posted on Snapshot; right?

8 A. Yes.

9 Q. Now, Mr. Phillips, in your declaration, you wrote that:

10 "In MIP4 and MIP7, they specifically identify Mr. Yurchak's law
11 firm as a service provider"; right?

12 A. Yes.

13 Q. And both MIP4 and MIP7 were dated August 2022; correct?

14 A. Yes.

15 Q. Okay. You coauthored both of those MIPs; correct?

16 A. Yes.

17 Q. Now, the GitBook lists the law office of Reed Yurchak as
18 the initial service provider, doesn't it?

19 A. Yes.

20 Q. And you testified that Mr. Yurchak never objected to being
21 identified in the GitBook; correct?

22 A. Yes.

23 MR. BERG: I would like to introduce Exhibit 378 for
24 the limited purpose of Mr. Phillips' knowledge. This will be
25 in defendants' exhibit binder Volume II.

1 THE COURT: Mr. Singh, any objection?

2 MR. SINGH: No objection.

3 THE COURT: What's the number again?

4 MR. BERG: 378.

5 THE COURT: Okay. Admitted.

6 (Plaintiff Exhibit 378 was received in evidence.)

7 MR. BERG: It should be defendants' Volume II,
8 Mr. Phillips.

9 THE COURT: Oh, it's defendants'.

10 MR. BERG: Yes. Yes, Your Honor. Sorry.

11 Defendants' Exhibit 378. Volume II, please.

12 THE WITNESS: This -- this binder starts at 426.

13 MR. BERG: May I approach the witness, Your Honor?

14 THE COURT: Yes, you may.

15 MR. BERG: This one seems to have --

16 THE WITNESS: 378?

17 BY MR. BERG:

18 Q. Are you there?

19 A. Yes.

20 MR. BERG: Your Honor, are you there?

21 THE COURT: Yes.

22 BY MR. BERG:

23 Q. On April 11, 2022, you received this e-mail from Marc

24 Welton, who was a paralegal of the law office of Reed Yurchak;
25 right?

1 A. Yes.

2 Q. And the e-mail Mr. Welton writes: "I have gone in and
3 edited out the reference to L-O-R-Y"; right?

4 A. Yes.

5 Q. LORY is a reference to law office of Reed Yurchak; correct?

6 A. I didn't -- I didn't know that.

7 Q. So this e-mail didn't inform you that Mr. Yurchak was using
8 his paralegal to edit out references to his firm name from the
9 GitBook; right?

10 A. Well, this was on April 11th, and the DAO launched on
11 February 2nd.

12 Q. I understand.

13 A. So, but I -- I -- I didn't know that it was L -- I didn't
14 know.

15 Q. You didn't know what?

16 A. I didn't know that that stood for "Law Offices of Reed
17 Yurchak."

18 Q. At no other point did Mr. Yurchak indicate to you that he
19 wanted his name removed from the GitBook?

20 A. No.

21 Q. Okay. Do you understand now that the initials LORY
22 correspond to Law Office Reed Yurchak?

23 MR. SINGH: Objection. Calls for speculation.

24 THE COURT: Overruled.

25 MR. BERG: I ask for --

1 A. I do now. But it is still on April 11th, and not
2 February 2nd or January 1st.

3 BY MR. BERG:

4 Q. So you understand now that LORY refers to law office of
5 Reed Yurchak and that Marc Welton sent this e-mail on April 11,
6 2022. But despite receiving this e-mail on April 11, 2022, you
7 still wrote in MIPS 4 and 7, in August of 2022, that the law
8 office of Reed Yurchak was acting as a service provider of the
9 MovementDAO; right?

10 A. Well, this doesn't say where he removed it. And this
11 e-mail, we were speaking specifically about the token use --
12 token sale use and there was a reference to, incorrectly, when
13 the -- that law office of Reed Yurchak was written as the
14 company.

15 So I can see how this -- but this doesn't say that it is
16 specifically removed as the service provider.

17 Q. You authored several proposals in August of '22 that were
18 posted on the MovementDAO Snapshot page, coauthored; right?

19 A. Yes.

20 Q. Those proposals were MIP 0 through MIP 8; correct?

21 A. Yes.

22 Q. The address ending in 0085 cast over 10 million votes for
23 those proposals; is that right?

24 A. That's correct.

25 Q. You were the one that physically cast those votes?

1 A. Yes.

2 Q. -- right?

3 A. Yes.

4 Q. Right.

5 You didn't consult with Mr. Yurchak about those proposals
6 before you did that, did you?

7 A. I did.

8 Q. On August 30, 2022, \$1.75 million was transferred out of
9 the DAO endowment account ending in 03C6; right?

10 A. Yes.

11 Q. You were the one that executed that transfer; right?

12 A. Yes.

13 Q. That 1.75 million was supposed to cover Movement's spending
14 through the end of 2022; right?

15 A. What do you mean by "cover"?

16 Q. You proposed a budget -- well, let me -- let me -- we will
17 get there.

18 After that transfer occurred in August, Mr. Breslow began
19 asking you for more frequent updates about the DAO endowment
20 balance and the development expense budget; is that right?

21 A. No. He asked me for updates generally, but nothing
22 specifically.

23 Q. He didn't ask you about the treasury balance in the Gnosis
24 and the development expense budget?

25 A. I would provide him with that information.

1 Q. Listen to my question. Is it your testimony that
2 Mr. Breslow did not begin seeking constant updates on the
3 treasury balance in the Gnosis and the development expense
4 budget?

5 A. He sought updates from me, yes.

6 Q. Did he specifically seek constant updates on the treasury
7 balance in the Gnosis and the development expense budget, yes
8 or no?

9 A. He didn't specifically give me instructions on what those
10 meetings were about --

11 Q. Let's go to exhibit --

12 A. -- updates.

13 Q. Excuse me. Go to Exhibit 93, please.

14 A. In which binder?

15 Q. This should be plaintiffs' Volume I.

16 A. Which number again?

17 Q. 93. That's paragraph 52, please. Let me know when you are
18 there.

19 A. Yes.

20 Q. Okay. So this is your declaration, Exhibit 93 is your
21 declaration dated March 17, 2023; right?

22 A. Yes.

23 Q. In paragraph 52, the last sentence of your declaration
24 says: "Mr. Breslow began for the first time seeking constant
25 updates on the treasury balance in the Gnosis and the

1 development expense budget"; right?

2 A. Yes.

3 Q. Okay. You prepared a budget and related materials on

4 September 11, 2022; right?

5 A. On September 11th, 2022, I prepared a budget?

6 Q. Yes.

7 A. I -- I participated in many budgets. I don't recall that

8 specific one.

9 Q. Let's go back to Exhibit 93, paragraph 53. Are you there?

10 A. Yes.

11 Q. First sentence: "I prepared a budget for MovementDAO on

12 September 11, 2022, which contains an instructive Snapshot of

13 the organization at that time." That's your sworn declaration;

14 correct?

15 A. Yes.

16 Q. Okay. Let's go to Exhibit 90.

17 MR. SINGH: Was that 9 or 90?

18 MR. BERG: 9-0.

19 BY MR. BERG:

20 Q. Let me know when you are there.

21 A. Yes.

22 Q. These are the materials that you prepared for Mr. Breslow

23 and Mr. Gordon that you just referenced in your declaration;

24 correct?

25 A. I think so. They're small. But, yeah, I think -- these

1 are some of them.

2 Q. You shared this document with Mr. Breslow and Mr. Gordon,
3 and discussed it with them; right?

4 A. Yes.

5 Q. Okay. Let's go to 776 of that document. Are you there?

6 A. Yes.

7 Q. It says "MovementDAO Initialization Budget" at the top;
8 correct?

9 A. Yes.

10 Q. And this budget lists the developers who you were proposing
11 to pay with this budget; right?

12 A. But this was the corroboration of everybody in Movement,
13 but, yes.

14 Q. This budget doesn't reference any deferred payments to
15 developers; right?

16 A. No, it does not.

17 Q. Nowhere in this document is there a reference to deferred
18 developer payouts; right?

19 A. On 778, it does list G tokens.

20 Q. Okay.

21 A. And -- I'm sorry. And then on 780, there is some legal,
22 like, from the -- from the law firm. There is deferred fees to
23 the law firm.

24 Q. My question was related to deferred developer payments.

25 A. And the -- on 779, the FC column, is -- refers to funding

1 cycle --

2 Q. Uh-huh.

3 A. -- which -- which describes, like, a payout schedule. But
4 the word "deferred" is not --

5 Q. What do you mean a "payout schedule"?

6 A. Well, the way this is outlined was that all of these
7 individuals were -- we were looking at the annualized budget.
8 And so the idea was that every three months or six months we
9 would go through a governance process to continue on. But
10 everyone who has the 100K G tokens was considered a core
11 contributor that was being employed by the DAO. And so that
12 was what we were using as our -- like, our yearly budget.

13 Q. Okay. Let's go -- if you could go back to 776, the column
14 under ENS. Do you see that?

15 A. 776?

16 Q. Yes.

17 A. What column?

18 Q. These are the list of the developers that are -- you're
19 proposing to employ; is that right?

20 A. Yes.

21 Q. Okay. Same thing on 77 -- 777? ENS is listed there; is
22 that right?

23 A. Yes.

24 Q. Okay. Disintermediated.eth is Mikhail Radin's ENS;
25 correct?

1 A. That's one of his addresses, yes.

2 Q. That's not on here, is it?

3 A. No.

4 Q. Okay. Is any reference to Mikhail Radin on here?

5 A. The blockchain architect on CaptainSpaceCadet.eth.

6 Q. Captain Space -- is CaptainSpaceCadet.eth Mikhail Radin?

7 A. He uses that -- the developers use that account.

8 Q. The developers or Mikhail Radin?

9 A. All of the developers share use of that account for
10 deploying contracts.

11 Q. So when you listed it here, what human being were you
12 referencing?

13 A. Mikhail. And so in the description section it says tezos,
14 blockchain architect tezos.

15 Q. Uh-huh.

16 A. That -- myself and Mikhail are the two tezos developers.

17 Q. And you're looking at page 777 when you say that; right?

18 A. 776.

19 Q. 776. Okay.

20 Okay. Let's go to 777 where it says CaptainSpaceCadet.eth,
21 do you see that?

22 A. Yes.

23 Q. Okay. The annualized income is 552,000; do you see that?

24 A. Yes.

25 Q. That's not 400,000, is it?

1 A. No.

2 Q. That's --

3 A. We were compensating for -- the reason we were using Space
4 Cadet was that Mikhail wanted to be paid in fiat and not Dai or
5 ETH. And so it would have to go through Fiat LLC. And we were
6 considering the expenses related to converting -- selling
7 cryptocurrency and then paying taxes on the capital gains,
8 and we weren't sure how that was working. So I think we -- we
9 outlined somewhere for an accountant to give us guidance.

10 Q. So there is nowhere on this budget that indicates that
11 Mikhail Radin was receiving an annual salary of \$400,000;
12 correct?

13 A. No.

14 Q. Okay. On February 2, 2023, 7.5 million Dai and 805 ETH
15 were transferred out of the account ending in 03C6; right?

16 A. Let me clear up -- my last response is that Mikhail Radin,
17 that's his line item. Let me just make it very clear about
18 that.

19 Q. Okay.

20 A. I gave, you know, details on the why, but --

21 Q. On February 2, 2023, 7.5 million Dai and 805 ETH were
22 transferred out of the account ending in 03C6; right?

23 A. Yes.

24 Q. You executed those transfers; right?

25 A. I signed -- I finalized them, that's correct.

1 Q. Did anyone besides you confirm that transaction?

2 A. The emergency committee authorized that transaction.

3 Q. The use of the three addresses to confirm -- please listen
4 to my question, Mr. Phillips.

5 Did anyone besides you confirm those transactions?

6 A. A Mr. Ben Reed.

7 Q. And which transaction did he confirm?

8 A. I'm not sure. I would have to look at the signings.

9 Q. So it was either you or Mr. Reed?

10 A. I could be wrong. I need to see the transaction hashes.

11 Q. Okay. Are you also the one that executed the transactions
12 to remove Alex Fine and Jon Gordon as signatories from the
13 account ending in 03C6?

14 A. Yes.

15 Q. Anyone help you confirm that transaction?

16 A. No.

17 Q. Since you introduced plaintiffs to the alias DAO-lawfirm,
18 you have used that alias as your alter ego; isn't that correct?

19 A. I -- no.

20 Q. You used that alias to provide you with what you described
21 as air cover for you to bill for legal work under the name of
22 Reed Yurchak's firm, without Mr. Yurchak performing or
23 overseeing that work; right?

24 A. No.

25 Q. You have used a third-party entity as an alter ego to pay

1 yourself fees before; isn't that right?

2 A. Are you referring to the criminal conviction?

3 Q. No.

4 A. Or the civil --

5 Q. I am.

6 A. -- matter, the A-Dot Corporation?

7 Q. Uh-huh.

8 A. A-Dot Corporation was a S-corporation that I -- I earned
9 over \$8 million in, and the Court considered that it was an
10 alter alias.

11 Q. So the answer to my question --

12 A. So, yes.

13 Q. You used a third-party entity as alter ego to pay yourself
14 fees before? And the answer to that is "yes"; right?

15 A. Yes.

16 Q. Okay. In September 2022 in the accounting you prepared for
17 Mr. Gordon and Mr. Breslow, Exhibit 90 -- do you remember that?

18 A. Sorry. Let me just be clear. With the accounting, there
19 were other members of the DAO that prepared that.

20 Q. Mr. Phillips, please answer my question.

21 In the September of 2022 accounting, you showed Mr. Gordon
22 and Mr. Breslow, you included a list of billed time from the
23 Yurchak firm related to the MovementDAO, didn't you?

24 A. There was an outline of time spent doing paralegal work for
25 MovementDAO.

1 Q. Just paralegal work?

2 A. I don't recall.

3 Q. Let's look at it. Let's go to Exhibit 90. Page 780.

4 Are you there?

5 A. 780?

6 Q. Uh-huh.

7 A. Yes. So this is what I was speaking about.

8 Q. I'm sorry. Wait for my question, Mr. Phillips.

9 Under "Biller" it says MP. That's Mark Phillips; right?

10 A. Yes.

11 Q. Okay. It also says MW. That is Marc Welton; right?

12 A. Yes.

13 Q. But it also says RY. That's Reed Yurchak; right?

14 A. Yes.

15 Q. Okay. So it's not just a listing of time billed for
16 paralegal activities; correct?

17 A. All right. So --

18 Q. It's not just a listing of billed activities for
19 paralegals; correct?

20 A. I -- I would have to read this. But --

21 Q. This is very simple. We show those entries for three
22 different folks, one of which is an attorney. So it's not just
23 limited to paralegals; right?

24 A. But no invoice was generated from this.

25 Q. That's not my question, Mr. Phillips.

1 A. Okay.

2 Q. At the bottom of this document that you characterize as
3 "not an invoice," it says \$20,000 and some change; right?

4 A. Yeah, I'm sorry, it's difficult to --

5 Q. I'm sure it is. I'm sorry.

6 A. So the -- the purpose of this --

7 Q. I'm not asking for the purpose. I'm asking what the number
8 is.

9 A. I'm sorry. I can't --

10 Q. That's fine. I will represent that it's \$20,000 and
11 some -- some other dollars.

12 Now, this isn't the first time you've presented a document
13 that was purporting to list billed time, like a false invoice,
14 is it?

15 A. This is not an invoice.

16 Q. That's not my question.

17 Have you, in the past, presented false invoices?

18 A. Yes. It related to a girlfriend that I had at the time,
19 who wanted me to change her name, Jan Wallace, to her company,
20 Wallace Black. I disclosed it to the board of directors --

21 Q. Mr. Phillips, I'm not asking for a narrative here, but we
22 will get into this.

23 MR. BERG: I would like to introduce impeachment
24 Exhibit 211. This is the superseding indictment.

25 THE COURT: Admitted.

1 (Plaintiff Exhibit 211 was received in evidence.)

2 MR. BERG: Your Honor, may I approach?

3 THE COURT: Yes, you may.

4 BY MR. BERG:

5 Q. This is the superseding indictment underlying your criminal
6 conviction; right?

7 A. Yes.

8 Q. In that indictment you were charged with submitting false
9 documents invoicing a company called MOD for supposed services
10 provided by a company called Wallace Black; right?

11 A. Yes.

12 Q. Okay. At the time you were MOD's chief executive officer
13 and a member of its board of directors; right?

14 A. And its majority shareholder, yes.

15 Q. All three of those; right?

16 A. Yes.

17 Q. You were also charged with using a Seattle law firm to
18 receive funds from MOD pursuant to those false invoices, and
19 then direct the law firm to transfer those falsely invoiced
20 amounts to Wallace Black's bank account; is that correct?

21 A. Yes.

22 Q. Okay. And you were charged with causing Wallace Black to
23 transfer those invoiced amounts to you and others for your
24 personal benefit; right?

25 A. I learned later that she did that.

1 Q. I'm asking if you were charged with doing it.

2 A. Yes.

3 Q. Okay. All of those allegations in the indictment were in
4 connection with the wire fraud counts asserted against you by
5 the U.S. government; correct?

6 A. Yes.

7 Q. And a jury found you guilty of those wire fraud counts;
8 correct?

9 A. Yes.

10 Q. You appealed your conviction to the 9th Circuit, but not on
11 the wire fraud counts; right?

12 A. I don't recall the specifics of the appeal.

13 Q. In the 9th Circuit's opinion, the Court described the
14 evidence that was submitted to the jury, which included all the
15 facts established by the record that were read in the light
16 most favorable to the government; right?

17 A. I -- is that --

18 Q. It's a question?

19 A. What was the question?

20 Q. Did the 9th Circuit enumerate the facts that the jury found
21 in its opinion?

22 A. I don't recall --

23 Q. Okay.

24 A. -- the --

25 MR. BERG: Let's -- I would like to introduce

1 Exhibit 221.

2 THE COURT: Admitted.

3 (Plaintiff Exhibit 221 was received in evidence.)

4 MR. BERG: You know what? We will move on.

5 BY MR. BERG:

6 Q. Mr. Phillips, you used the DAO-lawfirm alias to make
7 plaintiffs believe that Mr. Yurchak's firm was providing advice
8 and oversight on the MovementDAO project when it, in fact, was
9 just you; right?

10 A. That's not correct. I consulted with Mr. Yurchak regarding
11 governance and many legal matters with -- as it related to
12 MovementDAO.

13 Q. Uh-huh.

14 You used the DAO-lawfirm alias to misrepresent actions that
15 you were taking and recommendations that you were giving as if
16 they were actions and recommendations from the law firm of Reed
17 Yurchak; right?

18 A. I -- I did not give any advice.

19 Q. Okay. The case number for your criminal case was 10-cr-269
20 in the Western District of Washington State; correct?

21 A. Yes.

22 Q. A sentencing hearing was held in connection with your
23 conviction; right?

24 A. Yes.

25 Q. A copy of a transcript of that sentencing hearing was filed

1 in the Court's docket, a docket number 185; right?

2 A. I don't know the specific docket.

3 Q. You were present for that sentencing hearing; correct?

4 A. Yes.

5 Q. Sorry. Correct?

6 A. Yes.

7 Q. During that hearing, the judge added a two-level
8 enhancement to your sentencing calculation by making a factual
9 finding that you willfully obstructed justice; right?

10 A. Yes.

11 Q. The Court found that you willfully obstructed justice by
12 falsely testifying about a material matter with intent to
13 provide false testimony, didn't you?

14 A. Yes.

15 Q. The Court found that you willfully provided false testimony
16 about disclosing the false invoices from Wallace Black; right?

17 A. When you testify on your behalf and you don't have
18 materials to support it, that's what happens.

19 Q. I'm sorry. The Court found that you willfully provided
20 false testimony about disclosing false invoices from Wallace
21 Black; right?

22 A. I will take your word for it. I don't recall the
23 specific --

24 Q. The Court found that you willfully provided false testimony
25 about the reasons you offered for altering those invoices;

1 right?

2 A. Again, I don't -- I'll take your word for it.

3 Q. You don't recall?

4 A. I don't recall. I just -- obviously, it's a traumatic
5 period and I didn't want to have anything to do with repeating
6 that here.

7 Q. So you don't recall?

8 A. I don't recall the specifics of what the findings were.

9 Q. The Court found that you willfully provided false testimony
10 about your explanation at the money from those false invoices
11 was not for your personal benefit; right?

12 A. I remember disclosing it, having a board meeting about
13 those payments.

14 Q. I'm just asking you about what it -- I'm just asking about
15 what the Court found.

16 A. Again, I -- I don't recall exactly --

17 Q. Okay.

18 A. -- what --

19 Q. The Court found that you willfully provided false testimony
20 about receiving permission to pay yourself \$1.5 million when
21 you did not, in fact, receive that permission; right?

22 A. Again, I have board minutes that were not disclosed or not
23 provided in the criminal case.

24 Q. Did you recall that, the Court's finding?

25 A. I will take your word for it.

1 Q. Okay. So, in all, the Court found that you willfully
2 provided false testimony on four different occasions, during
3 the course of your testimony of your criminal trial; right?

4 A. Yes. And, again, this is why I was very adamant about
5 having all of our governance public and all our communications
6 public in the DAO.

7 Q. Mr. Phillips, I'm not asking for why you did other things.
8 I'm asking if you recall the findings of the Court. Thank you.

9 And do you recall?

10 THE COURT: Mr. Berg, my concern is that I can read
11 this opinion. And you're asking him if he recalls, is
12 interesting, but it is not helpful.

13 MR. BERG: Yes, Your Honor. I'm reading it for the
14 record. I can't introduce this exhibit under 608(b), and so
15 for purposes of the record, it's important that I want to get
16 this in. It's pretty important.

17 THE COURT: Right.

18 MR. BERG: I'm done with it and I'm moving on.

19 THE COURT: Okay. Very good. I can always refer to --
20 you're reading an opinion from a case, and I can always look
21 that up.

22 BY MR. BERG:

23 Q. You used the law firm of Reed Yurchak as a passthrough
24 entity to conceal the transfer of money to yourself; is that
25 correct?

1 A. No.

2 Q. Do you recall Mr. Singh asking questions of Mr. Yurchak and
3 yourself about One Of?

4 A. Mr. Yurchak executed an engagement agreement in order to
5 handle accounting for me because I didn't --

6 Q. You recall that testimony; right?

7 A. I do recall.

8 Q. Thank you.

9 And you currently pay child support; correct?

10 A. I do.

11 Q. Near the end of 2018, you requested that the Washington
12 Department of Social Health Services petition the Superior
13 Court of Washington or the County of King to adjust your child
14 support payments.

15 A. Right.

16 Q. In connection with that request, you represented your gross
17 monthly income was \$500; right?

18 A. Yes.

19 Q. All right. Pursuant to that request, the Court altered
20 your monthly support obligations to \$50; right?

21 A. Yes.

22 Q. Around August of 2021, you began doing work for the company
23 One Of; correct?

24 A. Yes.

25 Q. But One Of didn't pay you directly. They paid you through

1 the office of Reed Yurchak; right?

2 A. Yes, he was handling my accounting and taxes.

3 Q. Mr. Yurchak would receive money from One Of, and distribute
4 these payments to you in bitcoin; right?

5 A. He would pay me in cash or a Darian Morian (phonetic)
6 bitcoin.

7 Q. Under this arrangement, how much would you receive a month
8 for your work with One Of?

9 A. On the low end, \$10,000; and on the high-end, \$180,000.

10 Q. This arrangement, by which One Of paid you through
11 Mr. Yurchak's law firm, was that done at your request?

12 A. It was by mutual agreement.

13 Q. Was it initiated by your request?

14 A. I asked him if he would provide the accounting services for
15 me so I could focus on programming.

16 Q. So is that a yes --

17 A. Yes.

18 Q. Is that a yes to my question?

19 A. Yes.

20 Q. Around August of 2021, you were also hired by Merkaba;
21 correct?

22 A. Yes.

23 Q. Throughout your work with MovementDAO, you were not paid
24 directly; right?

25 A. Yes.

1 Q. Instead, payments would be sent to Mr. Yurchak's law firm,
2 and Mr. Yurchak would then distribute those payments to you via
3 cryptocurrency; right?

4 A. Either paid into the Meow LLC or in bitcoin or in Midereum
5 (phonetic). It depended.

6 Q. Okay. Under this arrangement, you were receiving \$88,000 a
7 month from January 2022 onward; correct?

8 A. From Merkaba?

9 Q. From -- related to the MovementDAO work.

10 A. From -- Merkaba paid me -- I don't recall the specifics,
11 but a couple of thousand dollars, until December of 2000 --

12 Q. Listen to my question.

13 From January of 2022 onward --

14 A. January 2022.

15 Q. -- you were receiving \$88,000 a month for your work with
16 MovementDAO?

17 A. That was -- yes.

18 Q. And that money was paid to you through Mr. Yurchak's law
19 firm in the form of cryptocurrency; correct?

20 A. Those payments were paid to Meow LLC.

21 Q. And that's an entity that you controlled; right?

22 A. Yes.

23 Q. So you were receiving payments for work with MovementDAO to
24 yourself personally or to an entity that you control; right?

25 A. Yes.

1 Q. Okay. Now, that arrangement was done at your request;
2 right?

3 A. Yes.

4 Q. Did the Department of Child Services ever learn that your
5 monthly income had increased beyond \$500?

6 A. I don't know.

7 Q. All right. For the work you performed for One Of, you
8 didn't report that to the Department of Social Health Services;
9 right?

10 A. We haven't finalized the accounting.

11 Q. Okay. And for the work you performed relating to
12 MovementDAO, you didn't report that to the Department either;
13 right?

14 A. Not at this time.

15 Q. Okay. Did you have payments from Merkaba and One Of sent
16 through Yurchak's law firm from Merkaba or to MovementDAO
17 generally to prevent the Department of Social Health Services
18 from learning about your substantially increased income?

19 A. No.

20 Q. You testified that you did not receive a 1099 or a W-2 from
21 plaintiffs for the work you did in 2022; right?

22 A. Yes.

23 Q. Okay. Did you pay taxes on the money you received in 2022
24 in connection with the MovementDAO?

25 A. I was preparing to before the TRO was put in place.

1 Q. And you received over a million dollars; right?

2 A. I did.

3 Q. Had you paid taxes on that money, notice of that income
4 would have been conveyed to the Department of Social Health
5 Services; right?

6 A. Again, I was preparing to do so with the accountant, but
7 the TRO went in place.

8 Q. move.xyz is the MovementDAO's website; right?

9 A. One of them.

10 Q. You testified that MovementDAO launched in February of
11 2022; right?

12 A. Yes.

13 Q. Okay. When the GitBook was published on February 2, 2022,
14 the GitBook said: "The platform is currently under development
15 and conducting a presale to fund its endowment"; right?

16 A. Yeah, that sounds correct.

17 Q. The GitBook even included a Snapshot of the presale page
18 for MOVE tokens; right?

19 A. Yes, I believe that's correct.

20 Q. Let's go to Exhibit 6.

21 A. Which binder?

22 Q. It's going to be plaintiffs' Volume I.

23 THE COURT: Okay. Just a few minutes, probably the
24 court reporter needs a break. Ms. Melton.

25 THE STENOGRAPHER: Yes, ma'am, I'm here.

1 THE COURT: Okay. We have been going now for over an
2 hour, at least. I wanted to make sure you were okay. Or when
3 do you need a break?

4 THE STENOGRAPHER: Whenever you plan on taking a lunch
5 break or -- if there is going to be a lunch break, that will be
6 fine for me. I'm not sure how long the hearing is scheduled
7 for.

8 THE COURT: We are actually scheduled for 1:00, to end
9 at 1:00.

10 THE STENOGRAPHER: Oh.

11 THE COURT: But it looks like we could go -- we may
12 need a little bit more time than that.

13 THE STENOGRAPHER: Okay.

14 THE COURT: But do you want to go to 1:00 and then take
15 a break, and then see what's going on at that point?

16 THE STENOGRAPHER: That sounds good.

17 THE COURT: Mr. Berg, how much more time do you need?

18 MR. BERG: 10 to 15.

19 THE COURT: 10 to 15.

20 Okay. So why don't we just go to that 15 minutes, and
21 then we will take a break so that she can rest.

22 Okay. Very good.

23 BY MR. BERG:

24 Q. Page 87 of Exhibit 6, please. Let me know when you are
25 there.

1 A. Which page, again? I'm sorry?

2 Q. 87.

3 A. Yes.

4 Q. Okay. That page of the GitBook shows a screenshot of the
5 MOVE presale page; right?

6 A. Yes.

7 Q. It says: "Become an early \$MOVE adopter. Sending from
8 Coinbase? Learn more here."

9 Do you see that?

10 A. Yes.

11 Q. It doesn't say anything about launch of the MovementDAO,
12 does it?

13 A. Not on this page.

14 Q. Okay. In March 2022, the move.xyz website stated that:
15 "The platform is currently under development and conducting a
16 token presale to fund its endowment"; right?

17 You won't see that on Exhibit 6, Mr. Phillips. I'm just
18 asking if you recall.

19 A. Can you repeat that statement again?

20 Q. On March 2022, the move.xyz website stated: "The platform
21 is currently under development and conducting a token presale
22 to fund its endowment"; right?

23 A. On the website it's stated to fund -- isn't that in the
24 GitBook?

25 Q. On the website it said that the platform is currently under

1 development; is that right?

2 A. The sister website.

3 Q. Mr. Phillips, let me back up for you.

4 A. Right.

5 Q. We're looking at Exhibit 6. This is the GitBook that was
6 published on February 2, 2022. We're done with that. I'm
7 asking you a new question.

8 In March 2022, on the move.xyz website, did it say, "The
9 platform is currently under development"?

10 A. Just -- this page would have been posted on that --

11 Q. Mr. Phillips, I'm not asking about this page anymore. I'm
12 asking on move.xyz website.

13 A. Yeah, and above -- in this address line, it says
14 presale.move.xyz.

15 Q. Uh-huh.

16 A. And so, I think if you went to move.xyz directly, it would
17 reroute you to this.

18 Q. Okay. Let's -- let's pull out Exhibit 204.

19 MR. BERG: Your Honor, may I approach?

20 THE COURT: Yes, you may.

21 MR. BERG: Your Honor, Exhibit 204 is an archived web
22 page of move.xyz. I would like to move Exhibit 204 into
23 evidence.

24 THE COURT: Mr. Singh?

25 MR. SINGH: No objection.

1 (Plaintiff Exhibit 204 was received in evidence.)

2 BY MR. BERG:

3 Q. Mr. Phillips --

4 A. Yes.

5 Q. -- Exhibit 204 is a web archive page of move.xyz taken on
6 March 14, 2022. Do you see that at the top of the page?

7 A. Yes.

8 THE COURT: I'm seeing April 17th.

9 MR. BERG: I'm sorry, Your Honor. That's the date
10 the capture occurred. If you look at the bottom right --
11 sorry -- in that banner on the far right side, there is a black
12 box that says March 14, 2022.

13 THE COURT: I see. Thank you.

14 MR. BERG: That's the feature of the web archive
15 format.

16 BY MR. BERG:

17 Q. Okay. Now, Mr. Phillips, if you'd go to the very bottom of
18 that page, the very last sentence, it says: "The platform is
19 currently under development and conducting a token presale to
20 fund its endowment."

21 Do you see that?

22 A. Yes.

23 Q. Okay. Now, move.xyz website said the exact same thing in
24 June 2022; is that right?

25 A. It had the same page in June?

1 Q. Same page, same language: "The platform is currently under
2 development."

3 A. Perhaps, yes. I -- I will agree with that.

4 Q. Do you recall it or not?

5 A. I don't recall the specific time frame in which various web
6 pages were updated --

7 Q. Okay.

8 A. -- and programmed.

9 MR. BERG: I would like to move Exhibit 203 into
10 evidence.

11 Your Honor, may I approach?

12 THE COURT: Yes, you may.

13 Mr. Singh, any objection?

14 MR. SINGH: No objection.

15 THE COURT: Admitted.

16 (Plaintiff Exhibit 203 was received in evidence.)

17 BY MR. BERG:

18 Q. Top right corner of Exhibit 203, it says June 13, 2022. Do
19 you see that, Mr. Phillips?

20 A. Yes.

21 Q. Same thing. All the way down at the bottom of the page:
22 "The platform is currently under development"; correct?

23 A. Yes.

24 Q. Okay. Thank you.

25 Mr. Phillips, you manage and maintain move.xyz; is that

1 right?

2 A. I -- I -- the developers all have shared credentials to
3 manage the -- the DNA domains.

4 Q. Mr. Phillips, do you manage and maintain --

5 A. I participate in managing it, yes.

6 Q. And you oversee all the developers; right?

7 A. I'm -- I participate.

8 Q. Answer the question, please.

9 You oversee the developers; right?

10 A. I -- the DAO is member managed and it's flat. So I am not
11 anyone's boss. But I do -- I'm an architect and I lead the
12 team.

13 Q. You lead the team.

14 A. I provide -- I mix pieces.

15 Q. That's correct. You lead the team; right?

16 MR. SINGH: Objection. It misstates prior testimony.

17 MR. BERG: It does not. He said, "I lead the team."

18 THE COURT: I heard him say he leads the team. Did I
19 misunderstand?

20 A. Yeah, I'm just trying to be clear that, like, as an
21 architect, as a senior developer, I don't have a heavier weight
22 in terms of opinions. We're all trying to collaborate to build
23 something.

24 THE COURT: All right. Thank you.

25 ///

1 BY MR. BERG:

2 Q. It was developed, is it fair to say?

3 A. I do coordination part of the work.

4 Q. move.xyz currently has an application linked to it that
5 purports to let a user create their own DAO; right?

6 A. Currently. Currently we're in development.

7 Q. Okay. That application is still under development in beta;
8 right?

9 A. Yes.

10 Q. So there is no application or interface currently
11 operational that will allow you to build a DAO on the Movement
12 website; correct?

13 A. It depends on your definition of DAO. But -- because you
14 can create a token and you can make a Snapshot space, or you
15 can create a Gnosis wallet and make a Snapshot space, and agree
16 on how decisions are made.

17 Q. What's your understanding in answering when you answer --
18 when I say, There isn't an application on move.xyz that allows
19 you to create a DAO, based on your understanding, is that
20 correct?

21 A. It's currently in development and in various stages of
22 working and not working. We break it all the time.

23 Q. Okay. So the answer is: No, there is not currently an
24 operational application that lets you create a DAO; right?

25 A. We have code that creates a DAO. Today it may not work.

1 Tomorrow it may. If we need to make it work today, we can do
2 that. But we're in development, adding features, and changing
3 things.

4 Q. What are the names of the DAO's created using that
5 application that are currently hosted on move.xyz?

6 A. We don't have any.

7 Q. You recently changed the current home page of move.xyz;
8 correct?

9 A. As I stated, that we are currently in development.

10 Q. Did you recently change the current home page of move.xyz?

11 A. Yes.

12 Q. When did you change that home page?

13 A. In the last week or two.

14 Q. Okay. The move.xyz home page is a copy of an old version
15 of the Juicebox launch page; right?

16 A. No.

17 Q. Okay. Is it a copy of any Juicebox page?

18 A. We share similar layouts and we used some of their image
19 assets. But our application is different than Juicebox.

20 Q. Did you ever -- that's fine. We will move on.

21 Did you ever have a conversation with Evita Stenqvist after
22 she received a transfer from February 2023 regarding whether or
23 not those funds would be clawed back from her?

24 A. I only know a general concern about what the state of our
25 salaries were, and not understanding whether the Court will

1 allow us to pay developers or not.

2 MR. BERG: Your Honor, may I approach?

3 THE COURT: Yes, you may.

4 MR. BERG: Your Honor, I would like to move Exhibit 212
5 in evidence.

6 THE COURT: Mr. Singh?

7 MR. SINGH: Yes, Your Honor.

8 This appears to be a conversation between Evita
9 Stenqvist and Mr. Iglesias. I don't see how it's relevant to
10 Mr. Phillips' testimony or how he can authenticate or anybody
11 can cause this exhibit to be admitted.

12 THE COURT: Okay. So, Mr. Berg, how is this
13 authenticated?

14 MR. BERG: What we're asking -- we're using this to try
15 to elicit from Mr. Phillips if he was the one that told
16 Ms. Stenqvist that her salary would be clawed back.

17 THE COURT: Okay. So why don't you just go ahead and
18 ask that question.

19 BY MR. BERG:

20 Q. Mr. Phillips, if you can see -- look at the last sentence
21 of the top e-mail on Exhibit 212.

22 Do you see that?

23 A. Yes.

24 Q. It says -- Ms. Stenqvist writes: "I was told that my
25 salary wouldn't be clawed back. As such, I have acted as if it

1 wouldn't."

2 Do you see that?

3 A. Yes.

4 Q. Did you tell Ms. Stenqvist that you -- that her salary
5 would not be clawed back?

6 A. No.

7 Q. Do you know who did?

8 A. No.

9 THE COURT: Okay. So that's withdrawn?

10 MR. BERG: Yes, Your Honor.

11 BY MR. BERG:

12 Q. Mr. Phillips, to the extent it exists at all, the
13 MovementDAO, unincorporated nonprofit association, was formed
14 in August 2022; is that right?

15 A. It was my understanding that the initial launch was
16 technically an unincorporated nonprofit association. That,
17 like GitBook, as was referred to as a white paper, that there
18 was a token terms of use, and an application terms of use, but
19 the structure of the DAO was an unincorporated nonprofit.

20 So the paperwork that we did in the governance was an
21 attempt to reflect how the DAO was operating up to that point.

22 Q. Okay. Let's go to Exhibit 8. This is going to be in
23 plaintiffs' Volume I.

24 THE COURT: You have five more minutes, Mr. Berg.

25 MR. BERG: That's all I will need.

1 BY MR. BERG:

2 Q. Let me know when you are there.

3 A. Exhibit 8?

4 Q. Yes, sir.

5 A. Yes, I'm here.

6 Q. This was -- this was MIP 0; right?

7 A. Yes.

8 Q. This is the proposal that was posted on MovementDAO's

9 Snapshot; right?

10 A. Yes.

11 Q. Dated August 23, 2022?

12 A. Yes.

13 Q. In this -- and you coauthored this proposal; right?

14 A. Yes.

15 Q. In this proposal you asked the DAO community to ratify a

16 document called Guiding Principles; right?

17 A. Yes.

18 Q. You told the DAO community in this proposal that ratifying

19 the Guiding Principles attached to the proposal would establish

20 an unincorporated nonprofit association called MovementDAO;

21 right?

22 A. Yes.

23 Q. Let's go to 177 of that document.

24 A. Yes.

25 Q. Under "Rationale," it says: "Ratifying the Guiding

1 Principles establishes an unincorporated nonprofit

2 association"; right?

3 A. Yes.

4 Q. And then on 176, first bullet on that page, it says:

5 "Guiding Principles established the DAO as an unincorporated

6 nonprofit association"; right?

7 A. Yes.

8 MR. BERG: No further questions, Your Honor.

9 THE COURT: All right. Thank you. So we will take a
10 10-minute break. That will bring us back at roughly 10 minutes
11 to 1:00; correct? About 12 -- let's come back at 12:55.

12 MR. BERG: Thank you, Your Honor.

13 (A recess was taken from 12:43 p.m. to 12:55 p.m.)

14 THE COURT: Please be seated. It's 12:55.

15 You're finished with cross-examination, right,

16 Mr. Berg?

17 MR. BERG: Yes, I am, Your Honor.

18 THE COURT: Okay. So Mr. Singh, do you have any
19 redirect?

20 MR. SINGH: I do, Your Honor.

21 THE COURT: Okay. How many minutes will that take?

22 MR. SINGH: Your Honor, I estimate about 20 to
23 30 minutes.

24 THE COURT: Wow. Okay. Well, look, here is my
25 concern. You all have a trial, if that's what you want. But

1 here are the issues I need to address. I need to address
2 preliminary injunction. One, substantial likelihood on the
3 merit. Two, is this injunction necessary to prevent or
4 irreparable injuries? Three, threaten injury that outweighs
5 harm, and whether there is some adverse affect on the public by
6 my granting this preliminary injunction. Right.

7 So plaintiff has the burden of proof. They produced
8 evidence. I need to know when you -- I know that, of course,
9 if I stay here, we can just talk about all of this forever.
10 But we have to narrow down the issues.

11 So what do you have to ask in redirect, Mr. Singh,
12 that's going to go directly to those issues? And if you could
13 address that for me, please.

14 MR. SINGH: Yes, Your Honor.

15 The bulk of my redirect will go to the issue of
16 likelihood of success on the merits. And, specifically, I
17 believe the -- the primary issue here is whether the DAO
18 launched or did not launch. And the reason why I say that is,
19 if the DAO launched, then plaintiffs' agreements were not with
20 individual defendant; they had a contractual relationship with
21 MovementDAO. And to the extent that Mr. Phillips, then, caused
22 any harm, they should have been brought as derivative claims
23 against the DAO or pursuant to their contractual obligations
24 with the DAO.

25 Second, potentially plaintiffs have claims arising from

1 Mr. Phillips' conduct as a security consultant under
2 Mr. Yurchak's engagement agreement. And even there, if there
3 is a contract issue, those claims should have been brought
4 against Mr. Yurchak's firm.

5 And so going to the issue of DAO launch and whether the
6 DAO launched and the DAO being a separate entity compared to
7 the software platform, are all key issues that I can further
8 comment on on redirect.

9 THE COURT: Okay. So what you have done is -- you're
10 explaining to me how he is going to -- you are going to walk
11 this witness through the documents that are going to establish
12 that MovementDAO is a separate entity, that it -- that it's
13 somehow authorized to do all of these things that it has
14 done --

15 MR. SINGH: Yes, Your Honor.

16 THE COURT: -- aside from Mr. Breslow, and Mr. Gordon,
17 and Mr. Fine's wishes.

18 MR. SINGH: Correct, Your Honor.

19 THE COURT: Okay. Well, I will give you 20 minutes in
20 which to do that. And then you are asking also for Mr. Reed to
21 testify. How does his testimony affect my ruling on a
22 preliminary injunction?

23 MR. SINGH: Yes, Your Honor.

24 Mr. Reed can testify to the fact that the DAO did
25 launch; the DAO engaged in business; it entered into agreements

1 with companies; it hired employee. And Mr. Reed, as an
2 authorized member of the DAO, directly managed and governed
3 those processes.

4 THE COURT: Okay.

5 MR. SINGH: So we had to show that this was not simply
6 some garage startup that was abandoned. It was an entity. It
7 had its own IRS tax number. It had real obligations, and
8 Mr. Reed was managing those operations.

9 THE COURT: What is the definition of "launch"?

10 MR. SINGH: Your Honor, that's in dispute. Our
11 position is that a DAO launches simply when there is an
12 agreement amongst the parties as to where DAO assets are to be
13 stored, and how decisions are made. That's different than the
14 software product the DAO creates which is the DAO platform and
15 the ability to create other DAOs.

16 And we further know, Your Honor, the formation of a
17 Delaware unincorporated nonprofit association requires even
18 less. It requires simply the joining of two or more members
19 for a unified nonprofit purpose. And so, in essence, as soon
20 as two members join together for a nonprofit purpose, an
21 unincorporated, nonprofit association was formed. As soon as
22 those two members agreed with respect to how assets were to be
23 stored and decisions to be made, and that's reflected in the
24 GitBook, the DAO launched.

25 THE COURT: Those two members would be who?

1 MR. SINGH: Your Honor, I'm not saying that there is
2 only two members. I'm saying that Delaware law only requires
3 two members. But the initial members here were defendant,
4 Mark Phillips, and as well as the individual plaintiffs.

5 THE COURT: Okay. So you're going to show me where in
6 this evidence the defendants and the plaintiffs agreed that
7 this DAO was launched?

8 MR. SINGH: Yes, Your Honor.

9 The GitBook itself contains that evidence. The GitBook
10 states where -- where the -- where the funds for the DAO are to
11 be stored. And there has been no objection. We have been
12 referring to that as the DAO Movement endowment notices.

13 THE COURT: Okay.

14 MR. SINGH: And I will point now to -- point now to
15 Mr. Phillips' point -- places in the GitBook where the parties
16 have come to an understanding that initial governance was done
17 by MAPE voting. And --

18 THE COURT: And not by MOVE tokens?

19 MR. SINGH: Not by MOVE tokens.

20 It was always implied that MOVE tokens would come into
21 effect later on, but the GitBook specifically provides that in
22 the initial bootstrapping phase, voting was done with these
23 MAPE NFTs.

24 THE COURT: Okay. And you will show me where the
25 GitBook or the MIPs, or wherever in the record, the individuals

1 who have funded the DAO determined that the DAO would be run
2 without their leadership.

3 MR. SINGH: Well, Your Honor, we addressed that point
4 when we took Mr. Phillips' direct testimony last time. And
5 the -- the summary there is, because individual plaintiffs
6 sought to anonymize their contributions to the DAO,
7 they -- they contributed money to the DAO-lawfirm.eth address
8 and the DAO-lawfirm.eth address contributed to the Movement
9 Gnosis.

10 And so because there was this anonymizing concern by
11 plaintiffs, as well as other individuals, Mr. Ryan Mallory, who
12 we brought last time, Freddie Montero, and Mr. Ben Reed, those
13 individuals didn't have the same voting rights initially that
14 other direct contributors to the Movement Gnosis did have.

15 And so Mr. Phillips, last time, testified that because
16 those individuals contributed through the DAO-lawfirm.eth
17 account, he, while managing the DAO-lawfirm eth account on
18 behalf of Reed Yurchak, went to each of those individual
19 members and sought their consent before voting for those
20 initial MIPS.

21 THE COURT: Okay. So if I understand you correctly,
22 the DAO -- the DAO-lawfirm began, then, to be the controlling
23 vote, but according to his testimony, he individually would
24 seek their -- or sought their approval before he would vote?

25 MR. SINGH: That's correct, Your Honor.

1 Mr. Phillips testified, and we produced as an exhibit,
2 that he referred the -- a link to the MIPs to Mr. Fine. He
3 testified that Mr. Gordon was involved in drafting the MIPs.
4 And he also testified that he discussed the MIPs with
5 Mr. Breslow, and Mr. Breslow consented to those August 2022
6 MIPs.

7 THE COURT: Okay. So I can tell you from what you have
8 explained to me that in terms of the testimony from Mr. Reed, I
9 don't see how its relevance is going to help me in making a
10 decision on preliminary injunction. I would like to give you
11 the 20 minutes to -- to redirect with Mr. Phillips, but I don't
12 see how anything else is needed. So once you have done that,
13 if we can could go straight to argument and you are directing
14 me, both parties, then I can get a sense of exactly what I need
15 to know to make this decision.

16 MR. SINGH: Understood, Your Honor.

17 THE COURT: All right. Mr. Berg, I see you standing.
18 And it's not that I don't want to hear your concerns, it's just
19 that if we -- we need to move forward, and then you will get an
20 opportunity to also present argument.

21 MR. BERG: One small element I would like you to
22 consider, Your Honor, regarding Ben Reed.

23 I totally agree, the additional testimony on direct is
24 not necessary, but we should have a very brief opportunity to
25 cross-examine him.

1 THE COURT: On what issues?

2 MR. BERG: Credibility.

3 THE COURT: Okay. Let's do this 20 minutes, and we can
4 talk about that later.

5 So you will be done by no later than 1:30.

6 MR. SINGH: Yes, Your Honor. I will strive to keep it
7 short and sweet.

8 REDIRECT EXAMINATION

9 BY MR. SINGH:

10 Q. Mr. Phillips, what is a DAO?

11 A. A DAO is an agreement on where the funds are stored and how
12 decisions are made.

13 Q. Is a DAO an organization?

14 A. Yes.

15 Q. And did you consider yourself -- did you consider
16 MovementDAO to be an unincorporated nonprofit association?

17 A. Yes.

18 Q. And is the DAO organization separate to what's been
19 referred to as "the platform"?

20 A. Yes. The platform is software, or what -- the purpose of
21 what we were building. And the DAO was where the money is
22 stored and then how decisions were made.

23 Q. What is the -- what is "the platform"?

24 A. A platform is a complicated set of software for how users
25 would create a treasury and issue tokens, also create NFTs, and

1 do all the things that we've been talking about in a
2 pretty-to-use application.

3 Q. And so you mentioned earlier that the software for the
4 platform was in development; correct?

5 A. Yes.

6 Q. Was transparency a goal of the DAO?

7 A. Yeah, the first tenet of everything on the blockchain, and
8 specifically DAOs, was the experiences that I had where board
9 minutes disappeared, everything related to a DAO in terms of
10 where the money is stored, how payments are made, who has
11 control, what -- what wallets are interacting and people voting
12 and what they're voting on. Everything is -- everything is
13 public, everything is transparent. That -- that's the goal.

14 Q. How was the DAO decision-making made public?

15 A. So in this program called Discord, which is a chat
16 application, there were channels that would say here -- here is
17 some ideas for this proposal or -- so there is a website.
18 There is Discord where people can communicate. There is
19 Snapshot that would capture a specific vote. But a lot of
20 communication would occur in -- in Discord.

21 Q. Did plaintiffs have access to the Discord?

22 A. They did.

23 Q. Did plaintiffs have access to the website?

24 A. They did.

25 Q. Did plaintiffs have access to the Snapshot proposals?

1 A. They did.

2 Q. I'm going to have you turn to Plaintiffs' Exhibit 6.

3 THE COURT: Let me clarify something, Counsel. I just
4 want to be most efficient in use of time. When you say
5 "website," you asked a question, plaintiff having access to the
6 website. What website are we discussing?

7 BY MR. SINGH:

8 Q. Mr. Phillips, does MovementDAO have its own website?

9 A. Yes.

10 Q. Sorry. Go ahead.

11 A. move.xyz.

12 Q. And were MovementDAO's documents accessible via that
13 website?

14 A. They were. But on the second page of the -- Exhibit 6,
15 there is a list of internet addresses which includes the
16 Snapshot and then the web address.

17 Q. Let's go to Exhibit 6. And is Exhibit 6 a copy of
18 MovementDAO's GitBook or at least a version thereof?

19 A. Yes.

20 Q. Can you turn to page -- oh, it's 47 of 653 at the top.

21 THE COURT: Excuse me. Another question.

22 When you say that something is "accessible on the
23 website," were there links to go to another area? Or, if I
24 looked at the website, would I see all of the MovementDAO
25 documents?

1 That's the question I'm asking counsel to clarify for
2 me.

3 MR. SINGH: Sure.

4 BY MR. SINGH:

5 Q. Mr. Phillips, if you can go to the MovementDAO website
6 today, are all of the MovementDAO documents accessible on that
7 website?

8 A. There -- the answer is yes, there are -- there is a menu on
9 the top, and it may direct you to go to other sections or other
10 sites. But, generally, it was described in Discord where
11 docs.move.xyz would have documents. And gov.move.xyz would
12 have government-related stuff.

13 And there is some overlap. NFT's dot would have an
14 application in DAO, so forth. But on the main move.xyz, the
15 intention is to have everything accessible and may be not
16 intuitive because we have to do more work in terms of
17 documentation.

18 Q. Does the MovementDAO website contain links to its Snapshot
19 website?

20 A. Yes.

21 Q. And Snapshot is a separate website?

22 A. Yes.

23 Q. And that Snapshot website is publicly accessible?

24 A. Yes.

25 Q. And does that Snapshot website list all of MovementDAO's

1 Movement Improvement Proposals, or MIPs?

2 A. Yes.

3 Q. And you can also read the individual MIPs on that Snapshot
4 website?

5 A. Yes.

6 Q. And you can also see the votes made in favor or against
7 each of those MIPs; is that correct?

8 A. Yes.

9 THE COURT: All right. Thank you.

10 BY MR. SINGH:

11 Q. So let's go back to Exhibit 6, and that's page 47 of 653 at
12 the top.

13 Do you see that?

14 A. Yes.

15 Q. At the very top of the page, it says that: "Benefits to
16 Movement token holders." First bullet point says: "Governance
17 of the Movement and governance proposals."

18 A. I'm sorry. Which -- defendants' --

19 Q. I have Exhibit 6.

20 A. Okay. Plaintiff --

21 Q. It's Bates -- or it has an ECF tag at the top.

22 A. Uh-huh. Yes.

23 Q. That's 47 of 650 --

24 A. I'm sorry. Excuse me. Yes.

25 Q. Does that first bullet point state "Governance of the

1 movement and governance proposals"?

2 A. Yes.

3 Q. And what does -- what does that bullet point relay, to the
4 best of your understanding?

5 A. That -- that Movement members would be able to participate
6 in the governance and governance in the proposals.

7 Q. Did the MovementDAO GitBook contain any restrictions that
8 the endowment could not be spent?

9 A. There is a section saying that it shall not be spent, but
10 that's not what we -- how we -- how we operated.

11 Q. So you say that's not how you operated. What was the
12 actual understanding of MovementDAO members?

13 A. It was my understanding, and it was -- as discussed in
14 Discord, that the organization would be focused on building
15 tools to help DAOs and social movements be able to have a tool
16 that traditional non-profits could use and that would be able
17 to seed -- seed those movements.

18 Q. Was the Movement endowment used to pay your salary?

19 A. It was. And Mr. Gordon's.

20 Q. Was the Movement endowment used to pay the engineering
21 team?

22 A. It was.

23 Q. And did plaintiffs consent to that spend of MovementDAO
24 endowment funds?

25 A. They did.

1 Q. And did MovementDAO use --

2 THE COURT: I have a question. I want to make sure I
3 understand that answer.

4 So, Counsel, I understood there was a separate amount
5 of a million dollars that was paid to Mr. Phillips to develop
6 the platform. That was separate from the endowment; correct?

7 MR. SINGH: That's correct, Your Honor.

8 Mr. Phillips, pursuant to the December 2021,
9 independent contractor agreement he entered with Mr. Breslow,
10 received a million dollars and was supposed to receive
11 10 percent of the founder tokens upon completion of that
12 agreement.

13 THE COURT: Okay.

14 MR. SINGH: And that agreement was completed in --
15 January 1st of 2022. And thereafter, we're now talking about
16 the authorization of funds and payments made from the endowment
17 in 2022.

18 THE COURT: Okay. So aside from that million dollars,
19 he is saying -- well, he was given -- he was -- it was agreed
20 with the plaintiffs that he would get money from the endowment
21 fund itself.

22 MR. SINGH: That's correct, Your Honor.

23 THE COURT: Okay. And where would I find that?

24 MR. SINGH: I believe it was referenced in the budget
25 and that was Mr. -- Mr. Phillips' salary, we testified -- or

1 Mr. Phillips testified last -- at the last hearing that we
2 pointed to a specific provision in the GitBook that stated that
3 there was a private, anonymous donor who was fronting money on
4 behalf of the MovementDAO until MovementDAO was ready to itself
5 make those payments.

6 THE COURT: Okay. So you're saying there is somewhere
7 in the GitBook that it says that he is to get a salary from
8 MovementDAO endowment fund?

9 MR. SINGH: The -- that, I believe, was in the budget
10 and the MIPS.

11 THE COURT: Okay. Show me where I can find it.

12 MR. SINGH: I don't have those numbers in front of me
13 yet.

14 THE COURT: Okay. Maybe Mr. Murdock could work on that
15 while you go ahead. Because I need to be able to see where
16 that is in the record and also see where the plaintiffs agreed
17 to it.

18 MR. SINGH: Sure, Your Honor. We testified --

19 THE COURT: And so it will show me where they said that
20 money can come out of the endowment funds.

21 MR. SINGH: Yes, Your Honor.

22 I think the point here is that there is only one source
23 of funds; it's just the endowment funds. And Mr. Phillips'
24 testimony earlier -- I'm sorry -- the last time we were here
25 was that he spoke to -- or connected with all of the individual

1 plaintiffs, they agreed to the August 2022 MIPs, and they had
2 previously thereafter been paying him his salary, and there had
3 been no objection to those funds coming out of the endowment
4 after the August 2022 --

5 THE COURT: Okay. So Mr. Murdock will show me all of
6 that.

7 MR. BERG: Your Honor, I think we can -- I don't think
8 there is a dispute here; I just want to clarify that for you.

9 Plaintiffs have testified that they paid Mr. Phillips
10 after a certain point through the DAO endowment. That's not in
11 dispute.

12 THE COURT: Okay.

13 MR. BERG: The position here is the DAO endowment was
14 not supposed to be locked until launch. Because things haven't
15 launched, they were able to use the endowment for expenses and
16 things like that. That's -- that was the testimony of
17 Mr. Breslow and Mr. Gordon. So I don't think there is any
18 dispute --

19 THE COURT: Okay. So once it's launched, it's locked?

20 MR. BERG: That's right. Just another reason why
21 launch is important, but I don't think --

22 THE COURT: I see.

23 MR. BERG: -- there is any dispute about --

24 THE COURT: That he could take money out of the
25 endowment fund?

1 MR. BERG: Prelaunch.

2 THE COURT: Prelaunch.

3 MR. BERG: Right.

4 I just wanted to make sure that is clear. I don't
5 think we're really disputing that it's coming from the DAO
6 endowment account.

7 THE COURT: Okay. That was confusing to me because I
8 was told nothing was coming out of that endowment fund.

9 MR. SINGH: Yeah.

10 And, Your Honor, the point we're trying to make here is
11 the GitBook stated no funds are to come out of the endowment.
12 MIPS later provided for spending money out of the endowment.

13 THE COURT: Okay.

14 MR. SINGH: So the understanding amongst the parties is
15 that the MIPS can modify terms in the GitBook.

16 THE COURT: Okay. All right. And -- and you agree to
17 that, Mr. Berg? MIPS can modify?

18 MR. BERG: No. MIPS cannot modify.

19 THE COURT: Oh.

20 MR. BERG: The \$1.75 million that was referenced in
21 August 2022 to pay the developers, there was a separate
22 agreement, a separate discussion with Mr. Breslow and
23 Mr. Gordon where they authorized that. And once that was done,
24 then Mr. Phillips issued a MIP, purporting to authorize to the
25 community.

1 And Mr. Breslow's testimony was that Mr. Phillips said:
2 You don't have to pay any attention to this. This is just a
3 rehash of what we're doing. We've already agreed to it. And
4 we're just providing notice to the community.

5 Which, under Mr. Breslow's testimony, was what he
6 thought MAPE NFTs were only allowed to do. That that type of
7 voting, using that token, was just advisory in providing
8 notice. But the MOVE tokens, as referenced in the GitBook, are
9 what actually constitute governance binding Snapshot.

10 THE COURT: Okay. So these MIPS are what you're
11 saying, Mr. Singh, authorized payments out of the endowment
12 fund.

13 MR. SINGH: Yes, Your Honor.

14 THE COURT: That that's what's in dispute; that MIPS
15 can't do that?

16 MR. SINGH: Yes, Your Honor.

17 THE COURT: All right.

18 MR. SINGH: And we have a MIP number. It's --
19 Plaintiff's Exhibit 11 is MIP003. And the heading there is
20 "Bootstrap Product Development," and that the heading states:
21 "Transfer 1.75 million Dai from the DAO multisig to the
22 developer multisig to bootstrap product development, funding
23 four months of product development and operations."

24 And so, Your Honor, our position is that it was not
25 simply enough for Mr. Phillips to discuss this issue with

1 plaintiffs; they had to use governance. They had to put
2 together a MIP. They had to get voting on it. And that was
3 the only way that they could authorize any funds of endowment
4 assets, and also that MovementDAO -- MIPs can modify the
5 GitBook.

6 THE COURT: All right. And you will show me where it
7 says that in the GitBook?

8 MR. SINGH: Well, Your Honor -- yes. So let's turn
9 back to page 47.

10 BY MR. SINGH:

11 Q. Mr. Phillips, the first bullet point there, again, is:
12 "Governance of the Movement and governance proposals are a
13 benefit of holding movement tokens"; that's correct?

14 A. Yes.

15 Q. Is it your understanding that by governance of the
16 Movement, that includes modifying the GitBook?

17 MR. BERG: Objection, Your Honor.

18 THE COURT: What page are you on?

19 I'm sorry, Mr. Berg.

20 What page are you on, Mr. Singh?

21 MR. SINGH: At the top, there is an ECF marker that
22 says 47 of 653.

23 THE COURT: Oh, I see. Okay. That's why -- I'm
24 looking at 47 in the Bates numbers. So 47 -- it would be Bates
25 54.

1 MR. SINGH: Yes. I think, Your Honor, the issue is,
2 Your Honor, after we exchanged exhibits, the Bates numbers were
3 added thereafter, so I don't have a --

4 THE COURT: Okay.

5 MR. SINGH: -- Bates number.

6 THE COURT: But at the top it says 47 of 653?

7 MR. SINGH: That's correct.

8 THE COURT: Okay. Now, could you ask that question
9 again?

10 MR. BERG: I have an objection to the question.

11 THE COURT: Okay. Then, could you ask the question
12 again so that I can hear it before the witness answers?

13 MR. SINGH: Sure.

14 BY MR. SINGH:

15 Q. Mr. Phillips, do you see at the top of the page, it says:
16 "Movements [sic] to \$Movement token holders," and the first
17 bullet point there is "Governance of the Movement and
18 governance proposals"?

19 A. Yes.

20 MR. BERG: Objection.

21 THE COURT: Okay. Your objection, Mr. Berg?

22 MR. BERG: This reference to \$Movement tokens is being
23 mischaracterized as a MOVE token, which is different.

24 THE COURT: Oh, okay.

25 MR. BERG: And as you can see in the prior page,

1 Bates 53, the \$Movement token refers to tokens that are issued
2 to the subDAOs that the platform is supposed to create. But if
3 you just go further up top that page, there is a reference to
4 \$MOVE governance tokens, under which it says: "MovementDAO is
5 governed by its staked token holders, \$MOVE tokens represent
6 the power to influence change to governance."

7 THE COURT: Okay. All right. Thank you.

8 Mr. Singh.

9 MR. SINGH: Yes, Your Honor. I will move on.

10 Can we move to 58 -- sorry. Actually, strike that.

11 Your Honor, let's move to page 65. I'm referring to
12 the ECF marking at the top.

13 THE COURT: Okay.

14 BY MR. SINGH:

15 Q. Are you there, Mr. Phillips?

16 A. Yes.

17 Q. Do you see the second paragraph under Snapshot voting?

18 A. Yes.

19 Q. It states there: "Snapshot voting strategies during the
20 MovementDAO will employ a governance token available to
21 individuals who stake \$MOVE."

22 The second sentence reads: "However, during the
23 bootstrapping phase of the DAO community contributors and based
24 on participation will be granted a MAPE-1420 NFT which will be
25 employed for initial governance."

1 What is the MAPE-1420 NFT?

2 A. That is the Movement APE NFT that we created and
3 distributed to the DAO members.

4 Q. So is it your understanding that prior to the MOVE tokens
5 being distributed, governance was done pursuant to these MAPE
6 NFTs?

7 A. Yes.

8 MR. BERG: Your Honor, objection. Mr. Phillips has
9 already testified to these questions.

10 THE COURT: All right.

11 MR. SINGH: Your Honor, that question --

12 THE COURT: Thank you, Mr. Berg. But I will -- I was
13 wanting to see exactly where his testimony would have come from
14 within the book. Thank you.

15 Okay. Thank you, Mr. Singh. You may continue.

16 MR. SINGH: Thank you, Your Honor.

17 BY MR. SINGH:

18 Q. We will go to plaintiff -- I'm sorry -- Defendants'
19 Exhibit 375.

20 A. Yes.

21 Q. And have you turn to page 374.

22 A. Yes.

23 Q. Do you see the heading that says: "How does an endowment
24 work logistically?

25 A. Yes.

1 Q. And just to start off, is Exhibit 375 a copy of the
2 GitBook?

3 A. Yes.

4 Q. So right above the heading it states: "How does an
5 endowment work logically?"

6 It states: "MovementDAO is fully managed by its token
7 holders."

8 A. Yes.

9 Q. Is that your understanding, that MovementDAO was fully
10 managed by its token holders?

11 A. Yes.

12 Q. And the MAPE NFT is a form of a MovementDAO token; correct?

13 A. Yes.

14 Q. What does NFT stand for again?

15 A. It's a non-fungible token. And it's further up -- 1, 2, 3,
16 4, 5 -- "MovementDAO token holders also govern how the
17 endowment manages its assets."

18 Q. Did Mr. Yurchak have any cryptocurrency technical
19 experience, to the best of your knowledge?

20 A. No.

21 Q. And did he delegate responsibility to you to manage the
22 DAO-lawfirm.eth account?

23 A. Yes.

24 Q. Did you use the DAO-lawfirm.eth account to create
25 plaintiffs' wallets?

1 A. Yes.

2 Q. And is that reflected online anywhere?

3 A. Yes. If you go to Etherscan and you enter in the Gnosises
4 of the plaintiffs and MovementDAO, all of the Gnosises
5 associated with everyone, it will say -- now it's been updated
6 to the service provider, but it will show who created the
7 contract or who controlled -- who created the Gnosis.

8 So it's -- it was also the -- it also transferred the first
9 seed funds into each of the accounts.

10 Q. So plaintiffs -- sorry -- strike that.

11 You were the only one associated with the law offices of
12 Reed Yurchak that had the technical ability to create those
13 wallets; correct?

14 A. Yes.

15 Q. And to the best of your understanding, you were referred to
16 as the security consultant in Mr. Yurchak's custodial trust
17 agreements with plaintiffs for those services; correct?

18 A. Yes.

19 Q. And did the DAO-lawfirm.eth address also create the
20 Movement Gnosis?

21 A. Yes.

22 Q. And was that information also publicly online?

23 A. Yes. On Etherscan, as well as the Gnosis tool that was
24 used by the expert, it states who created that Gnosis.

25 Q. How long did you manage the DAO-lawfirm.eth address on

1 behalf of Mr. Yurchak?

2 A. How -- until February 10, 2023.

3 MR. SINGH: No further questions, Your Honor.

4 THE COURT: All right. Thank you.

5 So what would be most helpful for me at this point is
6 to get argument from counsel. I would want to hear your
7 positions, and then be able to ask questions. And then, if
8 there is some evidence that you really believe you need from
9 Mr. Reed, fine. But I would really rather make sure that I
10 fully understand how all of this evidence works together,
11 rather than hear more evidence.

12 MR. SINGH: Thank you, Your Honor.

13 May Mr. Phillips step down?

14 THE COURT: Thank you. You may step down, sir.

15 THE WITNESS: Thank you.

16 THE COURT: So, Mr. Berg, this is your opportunity to
17 explain to me why I should grant the preliminary injunction.

18 MR. BERG: Oh, how long I have been itching,
19 Your Honor.

20 THE COURT: I know. And I'm giving you the chance.

21 MR. BERG: Just give me one second. I wanted to
22 address something on redirect, but I folded it in here.
23 Your Honor, I'm about to provide a summation tieing everything
24 together. There is, of course, a lot of evidence. I'm going
25 to try to put a bow on this for you, but please stop me with

1 any questions, very happy to address anything you have.

2 Your Honor, the preliminary injunction should be
3 granted for the following reasons. Plaintiffs have shown a
4 substantially likelihood that they will be able to establish
5 that Mark Phillips owed a fiduciary duty to act in their best
6 interests. Under Florida law, an implied fiduciary
7 relationship rely where there is a degree of dependency on one
8 side and an undertaking on the other side to protect or benefit
9 the defendant party.

10 The testimony of Mr. Breslow, Mr. Gordon, and
11 Mr. Phillips all show that Mr. Phillips had superior knowledge
12 to plaintiffs on blockchain coding and how to create and manage
13 a DAO.

14 The evidence shows that plaintiffs placed Mark Phillips
15 in a position of trust around late February or March 2022, when
16 he replaced Alex Fine as the person charged with implementing
17 the MovementDAO project as described in the GitBook.

18 The evidence shows that plaintiffs relied on Phillips
19 tremendously. Mr. Breslow specifically testified that they
20 depended on Phillips so much that he posed keyman risk, which
21 meant that without Mr. Phillips the project would come to a
22 halt.

23 The testimony shows that in January 2022, plaintiffs
24 entrusted Mr. Phillips with the ability to use their keys to
25 implement transactions in the DAO endowment account, and that

1 plaintiffs trusted Mark Phillips to use those keys in
2 accordance with their wishes.

3 The evidence shows that Mark Phillips repeatedly
4 indicated he accepted this position of trust and reaffirmed
5 that he was acting on behalf of plaintiffs to serve their
6 interests.

7 This is reflected in testimony but also in
8 Mr. Phillips' own written statements, Exhibit 135, 115, and
9 116. Specifically on 135, Mr. Phillips telling Mr. Breslow
10 that he is the boss, and he is working to protect Mr. Breslow's
11 interests.

12 Now, defendants presented evidence that showed the
13 December 2022 -- actually, Your Honor, for the purposes of
14 confidentiality, I'm going to be referring to the IC agreement
15 an awful lot, can we seal the transcript for the duration of
16 closings?

17 THE COURT: Okay.

18 MR. BERG: Thank you.

19 Defendants presented evidence that showed that the
20 December 2022 independent contractor agreement disclaimed that
21 Mark Phillips owed Mr. Breslow a fiduciary duty. But the
22 evidence shows that agreement terminated on December 31, 2022.
23 Plaintiffs entrusted Mr. Phillips with access to their DAO
24 endowment keys in January of 2022. Excuse me. That agreement
25 terminated on December 31, 2021.

1 THE COURT: Okay. Thank you.

2 MR. BERG: Plaintiffs entrusted Mr. Phillips with
3 access to their DAO endowment keys on January 2022. And
4 plaintiffs placed Mr. Phillips in a position of trust over the
5 MovementDAO project in February or March 2022.

6 At this point Mr. Phillips assumed a different
7 relationship with plaintiffs, with different and greater
8 duties. The relationship was not constrained by the
9 then-expired IC agreement. Defendants also claimed that Mark
10 Phillips owed duties to the movement MovementDAO, not
11 plaintiffs, beginning on February 2, 2022. That position is
12 inconsistent with Mr. Phillips' statements that postdate
13 February 2, 2022.

14 Next, plaintiffs have shown a substantial likelihood
15 that they will be able to establish that Mark Phillips is
16 liable for fraudulent misrepresentation. The testimony of
17 Mr. Breslow and Mr. Gordon shows that in February of 2022, Mark
18 Phillips represented to plaintiffs that he would implement the
19 MovementDAO project, according to the GitBook, and execute
20 plaintiffs' wishes in connection with the use of their keys.
21 That statement is corroborated by Mr. Phillips' testimony that
22 he was bound by the GitBook.

23 Plaintiffs have shown a substantial likelihood that
24 they will be able to establish that Mr. Phillips' promises were
25 false and fraudulent, and that his conduct related to those

1 promises breached the fiduciary duty he owed plaintiffs. The
2 evidence shows that Mark Phillips used the DAO-lawfirm alias
3 and cryptocurrency address ending in 0085 as an alter ego to
4 deceive plaintiffs and misappropriate money from the DAO
5 endowment account.

6 In January '22, Mark Phillips introduced plaintiffs to
7 the alias DAO-lawfirm which was registered to 0085. According
8 to Mr. Phillips, he informed plaintiffs that he would use that
9 address on behalf of Mr. Yurchak with Mr. Yurchak's
10 consultation and authorization. The GitBook describes what
11 role Mr. Yurchak would have. It states an independent law firm
12 would review spending requests for the DAO endowments.

13 That evidence corroborates plaintiffs' testimony that
14 they believed Mr. Yurchak was providing oversight of the
15 MovementDAO project.

16 Now, the evidence shows that Mr. Phillips went on to
17 use that 85 address to perform numerous transactions for the
18 DAO endowment account and engage in other conduct. There is no
19 dispute that plaintiffs were under the impression that
20 Mark Phillips was the person behind the keyboard executing
21 transactions using 0085 and DAO-lawfirm.

22 The testimony of Mr. Yurchak shows, however, that
23 Mr. Phillips did not consult or obtain authorization from
24 Mr. Yurchak prior to using 0085 or DAO-lawfirm for a wide range
25 of activity. And let's explore what that is.

1 Mr. Yurchak's testimony establishes that he did not act
2 as service provider for the MovementDAO, despite the GitBook
3 listing his name as service provider. Exhibit 378, that we
4 looked at today, shows that Mr. Yurchak discovered the
5 inclusion of his name in April of 2022, and he e-mailed
6 Mark Phillips to have it removed. That e-mail directly
7 contradicts Mr. Phillips' testimony that Mr. Yurchak never
8 objected to being listed as the service provider to the
9 MovementDAO.

10 Despite that e-mail demonstrating to Mr. Phillips that
11 Mr. Yurchak objected to being service provider, the evidence
12 shows that Mr. Phillips went on to author at least two
13 proposals in August of 2022, that identified Mr. Yurchak as the
14 MovementDAO's service provider; that's Exhibits 12 and 15.

15 The evidence shows that Mr. Phillips took affirmative
16 steps to induce plaintiffs to rely on Mr. Phillips' claim that
17 Mr. Yurchak was overseeing the use of the DAO-lawfirm address.
18 Mr. Phillips created a website that associated Mr. Yurchak with
19 the DAO-lawfirm.eth address; that's from Mr. Gordon's
20 testimony.

21 Mr. Phillips sent e-mails to Jon Gordon that listed
22 Reed Yurchak's name as the sender to make it seem like
23 Mr. Yurchak was engaged in the MovementDAO project; that's
24 Exhibit 110.

25 Mr. Yurchak testified that he was not actively engaged

1 in the project, and that his role was so de minimis that he
2 never billed any work related to the MovementDAO after
3 March 2022. And he also testified that he never authorized
4 anyone to send e-mails on his behalf as being from Reed
5 Yurchak.

6 The evidence supports plaintiffs' claim that
7 Mr. Phillips deceived plaintiffs about Yurchak's oversight.
8 This supports the fraud claim and itself constitutes a breach
9 of duty.

10 Now Mr. Yurchak testified that he was not aware of any
11 actions using the 85 address and did not authorize any actions
12 used by him. That un rebutted testimony colors the activity
13 undertaken by Mr. Phillips using the 85 address in a fraudulent
14 light, including the following:

15 The evidence shows that Mr. Phillips cast over
16 10 million votes, over 95 percent of the votes cast, using the
17 85 address for nine Snapshot proposals he authored in August of
18 2022. That's fact stipulation Number 19. By using that 85
19 address, Mr. Phillips was communicating to plaintiffs that
20 Mr. Yurchak approved those proposals. But Mr. Yurchak's
21 testimony, which is contrary to Mr. Phillips', is that he never
22 reviewed or authorized any proposal posted on Snapshot. And
23 you can see that in his declaration as well; Exhibit 95,
24 paragraph 10.

25 Those proposals furthered Mr. Phillips' efforts to

1 extract money from the DAO endowment for his personal gain.

2 The proposals purported to relieve the MovementDAO of any

3 recordkeeping obligations; that's Exhibit 8 at 194. The

4 proposals authorized Mark Phillips to spend up to \$100,000

5 without approval by a Snapshot vote; that's Exhibit 12 at 302.

6 The proposals also authorized reimbursement of expenses

7 without Mr. Phillips providing any description of the expenses

8 or the amount to be reimbursed; that's Exhibit 11 at 290. The

9 evidence shows that the Snapshot voting power attributed to 85,

10 that Mr. Phillips used to pass those proposals, was procured by

11 Mr. Phillips using deceptive means in February 2022, prior to

12 plaintiffs placing Mr. Phillips in a position of trust over the

13 MovementDAO project.

14 The analysis of plaintiffs' expert, Nicolas Bax, shows

15 that Mr. Phillips used the 85 address to make swap

16 transactions -- "swap" being a contribution from one

17 cryptocurrency to another -- made by others to the DAO

18 endowment, and count those swaps as voting power for the 85

19 address on Snapshot. Mr. Bax's analysis also shows that

20 Mr. Phillips made an indirect deposit of Mr. Breslow's

21 \$9.7 million contribution on February 2, 2022, before

22 Mr. Phillips assumed power over the project, and then

23 attributed that deposit to 85 to augment its Snapshot voting

24 power.

25 Now, the combined swap transactions and the indirect

1 deposit contribution are the exact number of votes Mr. Phillips
2 exercised when voting on his August '22 proposals with the 0085
3 address. That's important to keep in mind. The origin of the
4 voting power of the 85 address demonstrated by Mr. Bax's
5 analysis is inconsistent with Mr. Phillips' testimony which
6 stated that the votes from the 85 address were a combination of
7 all of the individuals who made contributions to the DAO
8 endowment via the law firm's address, including plaintiffs, Ben
9 Reed, Ryan Mallory, and Freddie Montero.

10 According to Mr. Bax's analysis of the DAO endowment
11 transaction record, that's listed in Exhibit 90, only one
12 contribution, Mr. Breslow's, was used by the DAO-lawfirm
13 address, 0085, to make a deposit into the DAO endowment. That
14 is critical.

15 From that, the evidence supports the conclusion that
16 both the origin and the use of the voting power attributed to
17 0085 was procured by fraud and to facilitate Mr. Phillips to
18 more easily obtain money from the DAO endowment for his own
19 benefit and conceal his efforts in doing so.

20 Now, defendants have just elicited testimony from
21 Mr. Phillips contending that the MAPE NFTs govern the platform.
22 But Mr. Bax's analysis of the Snapshot voting shows that
23 Snapshot voting was not governed by MAPE NFTs. And there is no
24 correlation with how many MAPE NFTs you have and how much
25 voting power you have. That's also critical. Where is that in

1 the GitBook?

2 The evidence shows that the context -- the content of
3 Mr. Phillips' proposals supports plaintiffs' claim that
4 Mr. Phillips was breaching his duty and demonstrate intention
5 contrary to his promise to get the GitBook. Mr. Phillips
6 acknowledged that the GitBook governs the MovementDAO's
7 relationship with its members and contributors, including
8 Mr. Phillips himself. The GitBook states: "The Snapshot
9 voting is only binding when MOVE tokens are issued, \$MOVE, and
10 that only \$MOVE token holders can participate in Snapshot
11 voting to buy Movement DAO"; that is Exhibit 6 at 89. However,
12 Mark Phillips authored a proposal in which MAPE NFT holders can
13 vote on the MovementDAO and Snapshot, instead of MOVE token
14 holders. We elicited that on cross. That proposal is
15 inconsistent with the GitBook.

16 Mr. Phillips testified that the GitBook stated that it
17 could be amended by Snapshot proposals. But on cross,
18 Mr. Phillips could not identify any section of the GitBook that
19 indicated the GitBook could be amended or changed by subsequent
20 Snapshot proposals. We even did word searches.

21 This evidence supports the testimony of Mr. Breslow and
22 Mr. Gordon, that they believe the Snapshot proposals to be
23 advisory only. The language that the defendant have pointed
24 out about MAPE NFTs refers to participating in governance, not
25 that those proposals are binding. And when you compare all of

1 the enunciations in the GitBook reiterating that MOVE tokens
2 bind, MOVE tokens control, the vague reference to MAPE NFTs,
3 which, by the way, just says "more details to follow" at the
4 end of that paragraph, is so unarticulated it's not reasonable
5 to conclude that MAPE -- that NFTs overcome MOVE tokens. Never
6 has there been a better case of the minnow swallowing the
7 whale.

8 This is consistent with Mr. Breslow and Mr. Gordon's
9 testimony. MOVE tokens had not been issued, no Snapshot
10 proposals were not binding. And it's also consistent with
11 their testimony that Mr. Phillips told them, confirmed for them
12 that the proposals were not binding.

13 This evidence also supports plaintiffs' claim that
14 Mr. Phillips was attempting to implement structures that were
15 inconsistent with the GitBook, which itself constitutes a
16 breach of duty and a violation of the promise.

17 Finally, that evidence supports plaintiffs' claim that
18 from August to February -- August '22 to February '23,
19 Mr. Phillips and Mr. Reed were acting pursuant to Snapshot
20 proposals that lacked authority. This is a critical point
21 because the February 2023 Snapshot proposals, which were
22 authored by Ben Reed, purported to authorize a transfer of
23 \$8.5 million out of the DAO endowment, which is one of the
24 central claims of theft and misappropriation. Those proposals
25 are inconsistent with the Gitbook's clear statement that the

1 DAO endowment cannot be spent. Thus, those proposals, the
2 transfer of the 8 1/2 million constitute breach of duty and
3 further evidence of Mr. Phillips' fraudulent scheme, that also
4 constitute the harm that plaintiffs have suffered as a result
5 of Mr. Phillips' breach and misrepresentation.

6 Now, plaintiffs testified that that the DAO endowment
7 could be spent prior to the MovementDAO's launch. According to
8 Mr. Breslow's testimony prior to launch, the DAO endowment
9 functioned as the equivalent of a trust account, that
10 Mr. Breslow held in trust for the benefit of everyone who
11 contributed to the DAO until the DAO launched.

12 The evidence supports plaintiffs' position. The
13 evidence shows that in January 2022, Mr. Phillips was acting as
14 Mr. Breslow's agent. The agency relationship continued through
15 at least August 2022 which is supported by Mr. Phillips' text
16 messages, Exhibits 115, 116, 135.

17 In January 2022, Mr. Breslow directed Mr. Phillips to
18 create the DAO endowment account. As cited in plaintiffs'
19 proposed stipulation of law, when an agent performs an act
20 pursuant to the direction of a principal, such as creating a
21 financial account, that account is the property of the
22 principal, not the agent. Accordingly, the DAO endowment
23 account created in January of 2022, before the GitBook was
24 published in February, by Mr. Phillips in his agency capacity,
25 was and is the property of Ryan Breslow being held in trust.

1 Now, defendants contend that the MovementDAO launched
2 on February 2, 2022. And on that date, all moneys in DAO
3 endowment account became the property of the MovementDAO.

4 Okay. That position is inconsistent with the record.
5 First, Mr. Phillips' testimony on cross established that the
6 MovementDAO nonprofit association was established on August 31,
7 2022. His testimony that an agreement was formed with
8 plaintiffs and himself to form that nonprofit association, is
9 inconsistent with the record. There has been no testimony from
10 plaintiffs saying that there was ever such an agreement. In
11 fact, Mr. Breslow said the first time he ever heard of a
12 nonprofit association was in July of 2022.

13 Thus, prior to August 2022, when the MovementDAO was
14 established by this Snapshot vote, there was no MovementDAO
15 entity to which property could be transferred. Second, the
16 record is devoid of any evidence that shows Mr. Breslow
17 transferred ownership of the DAO endowment account to anyone or
18 any entity.

19 So the evidence shows that prior to a transfer of
20 ownership, the DAO endowment account belonged to Mr. Breslow
21 who held it in trust and that Mr. Phillips' seizure of that
22 account constituted a breach of duty.

23 Plaintiffs have also presented sufficient evidence to
24 establish that Mark Phillips committed fraud and breach of duty
25 in creation -- in connection with the creation of a false

1 invoice. Mr. Yurchak's testimony established that Mr. Phillips
2 was using Mr. Yurchak's law firm as cover to build a
3 MovementDAO for activities he was performing without
4 Mr. Yurchak's oversight or direction. That testimony described
5 how Mr. Phillips was attempting to enlist Mr. Yurchak and his
6 plan to continue to do -- use the DAO-lawfirm alias without any
7 involvement with from Mr. Yurchak, and merely used
8 Mr. Yurchak's law firm as a passthrough to enrich himself.
9 Mr. Yurchak testified that Mr. Phillips prepared a false
10 invoice listing work that Mr. Yurchak had not billed or
11 performed as well as work Mr. Phillips claimed to have
12 performed, but that Mr. Yurchak did not oversee. We saw that
13 in Exhibit 90, and the magnified version Exhibit 98.

14 Mr. Yurchak confirmed that he never submitted that
15 invoice. But he also confirmed that that false invoice was the
16 same document that Mr. Phillips presented to Mr. Breslow and
17 Mr. Gordon because when we were directing Mr. Yurchak, we
18 showed him Exhibit 90. That was the same document that
19 Mr. Phillips presented to Mr. Breslow and Mr. Gordon when he
20 discussed the MovementDAO's operational budget in September of
21 2022.

22 Now, the gravity of this conduct is multiplied by
23 Mr. Phillips' own testimony, in which he said that he stopped
24 working as a consultant for Mr. Yurchak in January 2022.
25 Nevertheless, the record shows that Mr. Phillips presented that

1 false invoice to Mr. Breslow and Mr. Gordon in which he listed
2 himself as billing time on behalf of the law firm from April to
3 September 2022. That evidence supports plaintiffs' claim that
4 Mr. Phillips breached his duty to plaintiffs and was not
5 implementing the MovementDAO project as he promised.

6 The evidence supports plaintiffs' contention that
7 transfers of MovementDAO assets to third-party developers in
8 February 2023 were fraudulent. The declarations of Ben Reed
9 purport to provide an accounting of where defendants
10 transferred MovementDAO assets in February 2023. Mr. Reed
11 characterized certain transfers to developers as deferred
12 payments for services rendered in 2022; that's Exhibit 118.

13 Plaintiffs presented a September 2022 operational
14 budget, authored by Mark Phillips, purporting to set forth the
15 budget for the MovementDAO through the end of 2022, which was
16 the basis for plaintiffs authorizing \$1.75 million out of DAO
17 endowment to cover that proposed budget.

18 That budget, as we just saw, did not reference any
19 deferred payments or even name the names or the ENSs of
20 developers that received the transfers in February of 2023,
21 including Mikhail Radin, disintermediated.eth.

22 THE COURT: So let me ask you a question there. So
23 1.75 million was authorized by the plaintiffs out of the
24 endowment fund.

25 MR. BERG: (Nods head.)

1 THE COURT: Where did they think that money was going
2 to go?

3 MR. BERG: Yes. They -- they -- exactly how it was
4 listed on the -- excuse me -- on the operational budget. There
5 were a list -- and you can see this in Exhibit 90. There were
6 lists of developers. They had annualized salaries. They had
7 monthly salaries. This was going to be a budget for
8 four months, August to January of 2022. And at the very bottom
9 of that page 2, it says year-end total. It's a little bit
10 under 1.75 million, but the idea was, this is what it's going
11 to take for our people. Let's pay them. And then if, lo and
12 behold, several months later in February of 2023, now there are
13 hundreds of thousands of dollars, millions maybe, going out for
14 deferred payments for work in 2022. Nowhere listed --

15 THE COURT: So at the end of that payment, 1.75 million
16 roughly --

17 MR. BERG: Uh-huh.

18 THE COURT: -- what do they expect to have happened at
19 that point subject -- with the project.

20 MR. BERG: I'm sorry.

21 Yes. So the -- this 1.75 million was a -- sort of a
22 last ditch effort to juice the project. There had been a lot
23 of delays, things were not happening. As a result of this
24 bootstrapping, the business development, the DAO community
25 organizers were laid off, all funds were re -- were dedicated

1 to developers.

2 And Mr. Breslow testified the idea here was let's just
3 get it done; I want to launch the DAO. And essential to that
4 was launching the platform. And we will get into the only
5 evidence in this case that shows why launch of the platform is
6 synonymous with launch of the DAO.

7 THE COURT: Okay.

8 MR. BERG: Okay. Plaintiffs also presented evidence
9 that showed one individual, jango.eth, received \$10,000 in
10 cryptocurrency, but never performed any development work for
11 the MovementDAO. That's all you need to consider. These
12 transfers were fraudulent. And, of course, there is no
13 evidence in the record, there is no contracts or invoices in
14 the record showing how any of these developers were entitled to
15 any money. All that evidence supports plaintiffs' contention
16 that the transfers made by defendants were fraudulent and a
17 breach of Mr. Phillips' duty.

18 Now, the lengths that Mr. Phillips took to deceive
19 plaintiffs -- it's a lot of evidence we just covered --
20 demonstrated the plaintiffs to rely on his promise that we
21 implement the GitBook, and -- but the vast -- but not unlimited
22 discretion that plaintiffs bestowed upon Mr. Phillips
23 establishes that they relied on his misrepresentation.

24 Now, let's move to launch. Very important point.
25 Exhibit 367 is the IC agreement. Defendants just made an

1 argument contending that this agreement was about the launch of
2 the platform, not launch of the DAO. Don't look at this
3 agreement, it doesn't really matter.

4 But if you go to page -- page 1, page 347 of
5 Defendants' Exhibit 367. Under "scope of work," it says
6 plaintiff -- excuse me -- Breslow hereby engages Phillips to
7 work exclusively on a decentralized autonomous organization,
8 and then it defines that term as DAO, to fully develop and
9 launch the DAO. Not the DAO platform, the DAO.

10 And if you go to Exhibit A of that document, which is
11 page 351, the top of that exhibit says, to fully develop and
12 launch the DAO, consistent with the agreement. Not the
13 platform. The point is, the evidence showing Mr. Breslow, the
14 boss, and Mr. Phillips, the genius, agreeing, signing their
15 names to a document, evidencing that this is what we all agree
16 means launch. There is no launch as a matter of law. It's all
17 circumstantial, and this is the best evidence of it.

18 Mr. Phillips and Mr. Reed provided testimony that the
19 MovementDAO launched on February 2, 2022. Mr. Reed's testimony
20 is not credible and lacks foundation because he was not
21 involved with the MovementDAO until after February 2, 2022.
22 The only reason offered by Mr. Phillips for why the MovementDAO
23 launched on February 2, 2022, was because that was when --
24 quote, "That was when MovementDAO was promoted through bulk
25 e-mail and social media." That testimony is inconsistent with

1 the other evidence in the record. Now, the IC -- we mentioned
2 the IC agreement identifies several criteria that must be
3 completed before launch occurs.

4 You know, the fact that the IC agreement was terminated
5 in December of 2022 does not undermine its evidentiary value of
6 the parties' state of mind. No evidence has been presented in
7 the record that demonstrates that criteria ever changed.

8 Mr. Breslow, Mr. Gordon, all testified that, yeah, this was
9 what was required.

10 THE COURT: So I want to make sure I understand then
11 why this Juicebox entity or platform suddenly started being
12 used. I wasn't clear on that when Mr. Breslow testified.

13 MR. BERG: It started being used as --

14 THE COURT: As some sort of platform for --

15 MR. BERG: As sort of a --

16 THE COURT: -- for MovementDAO.

17 MR. BERG: -- as a standby. So Mr. Breslow's testimony
18 was he wanted to launch PeaceDAO because of the Ukraine charity
19 organization on MovementDAO. He was unable to because the
20 platform was not ready, okay? So instead -- he had to launch
21 something. He launched it on Juicebox. Juicebox allowed the
22 ability to -- for him to create peace tokens, to take in
23 contributions, to distribute the money, to the -- the actual
24 charitable efforts on the ground, and so forth. Wasn't able to
25 do any of that with MovementDAO.

1 But he -- he acknowledged he was trying to place
2 PeaceDAO very closely with MovementDAO. There was a launch
3 page on move.xyz. Because the idea was as soon as the
4 MovementDAO platform was live, they were going to move it onto
5 MovementDAO. And that was going to be, you know, the show
6 pony, the poster child of the MovementDAO. But that never
7 happened, and he was lying in wait. And so all of this
8 evidence of about how he is so closely associating it, yes, but
9 he never put it on there because, as Mr. Phillips just
10 testified, that thing is not operational.

11 THE COURT: Who created the Juicebox platform?

12 MR. BERG: So Mr. Breslow -- sorry -- the entire
13 platform?

14 THE COURT: Juicebox.

15 MR. BERG: Yeah, Juicebox. Good question. I had asked
16 Jango that question. It's -- his answer was, you know, the
17 community created it. It's -- it's -- the Juicebox community
18 created it, a bunch of developers created it. Jango.eth had a
19 sizable role, all of these developers are quite humble. No one
20 is taking, like, ownership of "it was me." But jango.eth, it's
21 been around while.

22 THE COURT: It's okay. Not Mr. Phillips? A different
23 entity?

24 MR. BERG: You know, I -- that's a question you could
25 ask opposing counsel. I understand that Mr. Phillips has done

1 some work with Juicebox --

2 THE COURT: Okay.

3 MR. BERG: -- separate from his work with MovementDAO.

4 But the point -- I think the -- one of the things to remember

5 here is that MovementDAO -- part of the efforts to develop

6 MovementDAO was taking Juicebox and trying to alter some of its

7 code to help jump start the MovementDAO platform. And it just

8 never turned into something that was useful or operational. So

9 that was why Mr. Breslow had to go to Juicebox.

10 Okay. So Mr. Phillips testified that Mr. Fine told

11 Mr. Phillips not to complete the principal requirement of that

12 agreement, just to create a user interface for the platform.

13 Whether Mr. Phillips was assigned that task or someone else

14 was, that evidence still shows that an operational user

15 interface is required for the MovementDAO launch, whether

16 Mr. Phillips made it or not. And the point is, there isn't

17 one. It's one of the terms of this agreement, no user

18 interface, no launch.

19 Mr. Phillips just told you on cross that it's still in

20 beta, and there is a disclaimer on that website that makes it

21 very clear it's beta. Not in dispute. If that's not in

22 dispute, this IC agreement tells you there is no launch.

23 Period. There is nothing that they have shown that controverts

24 that. It's the simplest point in the case.

25 THE COURT: Now, what is the irreparable injury here?

1 MR. BERG: Yes, sure.

2 Plaintiffs have presented evidence that, absent an
3 injunction, the DAO endowment assets will continue to be
4 dissipated and concealed. And that, under the 11th Circuit,
5 constitutes irreparable harm, even though it's just money.
6 That analysis is ascribed in Mr. Bax's testimony showing that
7 the defendants have been unable to account for all the assets
8 they transferred from the DAO endowment, that the statements
9 and their representations about the transfers are inconsistent,
10 and that the defendants have made transfers of assets covered
11 by the TRO after the TRO has issued. Failure to abide by the
12 TRO is strong evidence that absent the injunction, the DAO
13 assets will continue to be dissipated, because they're being
14 dissipated anyway. And the failure to provide a coherent
15 accounting supports plaintiffs' claims that some assets may
16 still be concealed.

17 In addition, defendants have admitted they will
18 continue to dissipate DAO endowment assets. They recently
19 filed a motion to amend the TRO, and sought permission to spend
20 nearly \$500,000 of the DAO endowment.

21 THE COURT: So what social impact projects have been
22 launched?

23 MR. BERG: You heard -- you heard from Mr. Phillips
24 today. None.

25 THE COURT: What about PeaceDAO?

1 MR. BERG: PeaceDAO, Your Honor, is on Juicebox.

2 THE COURT: Okay. So PeaceDAO is, though, funded by
3 the same money that is funding MovementDAO? Or is there
4 another fund?

5 MR. BERG: No, Your Honor. PeaceDAO -- Juicebox is the
6 mechanism by which PeaceDAO receives contributions.

7 THE COURT: Okay.

8 MR. BERG: So individuals who want to participate in,
9 you know, want to, you know, donate to PeaceDAO, send
10 their -- register their wallet with PeaceDAO -- excuse me --
11 with Juicebox and transfer money through that platform.

12 THE COURT: Okay. So the endowment money --

13 MR. BERG: It's not --

14 THE COURT: So the endowment money is not what is
15 funding the -- the aid to Ukraine through PeaceDAO. That's a
16 whole separate business plan, essentially.

17 MR. BERG: And, you know, just to be clear, Your Honor,
18 members of MovementDAO participated in some of the marketing,
19 tried to help out PeaceDAO, the whole idea was this -- this was
20 going to be absorbed, was going to be a part of MovementDAO,
21 but it couldn't yet. It just technically and functionally
22 could not. So you will hear -- you have heard evidence of
23 MovementDAO members participating, that's why Mr. Breslow
24 directed PeaceDAO to send some tribute to the MovementDAO
25 endowment as a thank you. It's set up to do that.

1 THE COURT: Right. Because that's what makes it a
2 little confusing here. So there is a DAO that's operational.
3 It is Mr. Breslow's --

4 MR. BERG: Yes.

5 THE COURT: -- brainchild, at least.

6 MR. BERG: What we would call, I think in the
7 nomenclature of this case, a subDAO.

8 THE COURT: Okay.

9 MR. BERG: Right.

10 THE COURT: So there is a subDAO that is operating
11 Mr. Breslow's brainchild; this was what he wanted to do.

12 MR. BERG: Uh-huh.

13 THE COURT: And he wanted Mr. Phillips to manage.

14 MR. BERG: I think Mr. Phillips was helping.
15 Mr. Phillips certainly created the page on Juicebox, so that --
16 the project on Juicebox, that's true. I don't know if he was
17 managing it, but --

18 THE COURT: But there was some understanding with
19 Mr. Breslow that Mr. Phillips was managing PeaceDAO?

20 MR. BERG: I don't think it's in evidence that
21 Mr. Phillips was managing PeaceDAO.

22 THE COURT: So who was managing PeaceDAO?

23 MR. BERG: Mr. Breslow was the head of it, but I
24 think -- and I -- we have submitted evidence that shows that
25 Mr. Phillips created the project.

1 THE COURT: Correct.

2 MR. BERG: But as far as the day-to-day, I'm not sure.

3 I'm not sure that's in evidence. I'm not sure I have that

4 answer for you.

5 THE COURT: Okay. So everything would just go -- there

6 would be a link to it from the MovementDAO website.

7 MR. BERG: Uh-huh.

8 THE COURT: And that's all that's -- that you know?

9 MR. BERG: Yeah, there is a -- there is a landing page.

10 I think it's peace.move.xyz. You click on that page. There is

11 some text and there is a link.

12 THE COURT: Right.

13 MR. BERG: You click that link and it takes you to

14 Juicebox.

15 THE COURT: Okay.

16 MR. BERG: And it takes you to the PeaceDAO Juicebox

17 page. And there you see all of the interesting information of

18 this is how much is in our endowment; this is how the tribute

19 is allocated; this is who created it. All of that information

20 is on the Juicebox.

21 THE COURT: What is in the endowment for Juicebox?

22 MR. BERG: Oh, goodness. I would have to go back and

23 look.

24 THE COURT: Whatever the people who have contributed to

25 it have put into it?

1 MR. BERG: Yes.

2 THE COURT: Okay. And so there are no other subDAOs?
3 That's it.

4 MR. BERG: That's it.

5 So if you're looking for harm that might be incurred
6 if -- if this injunction is implemented, no one is getting
7 harmed. The injunction asks for a freeze on MovementDAO
8 assets, which, frankly, is supposed to be frozen anyway and you
9 are not supposed to spend the endowment, if you assume
10 defendants' position, which is MovementDAO has launched. If
11 you assume that to be true, that thing is locked anyway. No
12 prejudice. Right?

13 PeaceDAO, which is run by -- which was created by
14 Mr. Breslow, you have heard from him, doesn't rely on
15 MovementDAO funds anyway. No prejudice. PeaceDAO continues to
16 tick unabated, regardless of this litigation.

17 THE COURT: Okay. So no harm to the public. PeaceDAO
18 would continue its work. Irreparable injury, in that the money
19 that is still missing which is, what, approximately
20 2 1/2 million that has not been put back or the 8 1/2 million?

21 MR. BERG: 2.3, I believe, we think is still
22 unaccounted for. It's in cash and various other -- who knows
23 where. But we're eerily awaiting updated accounting because --

24 THE COURT: But that's the injury right now, is it?

25 MR. BERG: Well, no -- well, that is the injury that we

1 think is being dissipated. The likely injury that would occur
2 without the injunction is greater which is --

3 THE COURT: Right. I understand.

4 MR. BERG: -- more of the assets will be dissipated and
5 concealed.

6 THE COURT: But right now you are talking about a 2.3,
7 roughly, million-dollar injury, and you think the entire
8 endowment, the 16 million would disappear if the whole business
9 is not stopped.

10 MR. BERG: For good reason. Because, in February,
11 8 1/2 million left.

12 THE COURT: And still no projects.

13 MR. BERG: (Indicating).

14 THE COURT: Okay.

15 MR. BERG: Okay. Your Honor, I'm getting the signal
16 that you would not like to hear about civil conspiracy.

17 THE COURT: I just want to hear about injunctions.

18 MR. BERG: Well, you're right, but for a substantial
19 likelihood on civil conspiracy.

20 THE COURT: Okay. Oh, the substantial likelihood of
21 success on civil conspiracy?

22 MR. BERG: Uh-huh.

23 THE COURT: Go ahead. Make your argument.

24 MR. BERG: Plaintiffs have presented evidence that
25 Mr. Reed acted in concert with Mr. Phillips to commit fraud and

1 breached Mr. Phillips' duty. The evidence shows that Mr. Reed
2 was the author of the proposals that purported to authorize the
3 8 1/2 million in transfer out of the DAO endowment. Evidence
4 also shows that Mr. Reed -- strike that.

5 Mr. Reed was also an active participant in all of the
6 governance and the Snapshot proposals and overseeing financial
7 issues, as Mr. Reed testified to. All of those were happening
8 within the context of the fraudulent scheme that Mr. Phillips
9 has created. So he is an active accomplice.

10 THE COURT: I see.

11 MR. BERG: Therefore, if you find that
12 Mr. Phillips -- there is a substantial likelihood of success
13 against Mr. Phillips, you should also find it for Mr. Reed.

14 Finally, public interest. There is a strong public
15 interest in granting the injunction. Mr. Phillips is a
16 convicted felon for wire fraud and money laundering. That
17 conviction involved the same methods issued here; a law firm to
18 conceal the scheme, use of a false invoice. He's also been
19 found in civil litigation to have transferred money to himself
20 through a third-party entity that he controls, very similar to
21 what was going on with Mr. Yurchak's law firm.

22 And based on the evidence that's been presented, his
23 credibility, his character for untruthfulness is, shall we say,
24 well established.

25 The public has a strong interest in stopping ongoing

1 fraudulent schemes before more harm is incurred on the opposite
2 end. There are no DAOs. There are no subDAOs that would be
3 harmed here. The developers that -- I'm sure you will hear
4 from defendants who are supposed to be getting money. There
5 are no contracts, no invoices, nothing to corroborate those
6 claims for fees. And, again, as we just walked through, that
7 operational budget shows they've already been paid. And on top
8 of that, the Snapshot analysis shows there is no authorization
9 to hire them in the first place.

10 So this Court should not permit the dissipation of
11 97 percent of the endowment which was contributed by plaintiffs
12 to be further dissipated for highly suspicious third-party
13 claims.

14 Thank you, Your Honor.

15 THE COURT: All right. Thank you.

16 Mr. Singh. Let me start with the lack of injury to the
17 public. Plaintiff says that there are no subDAOs anyway, other
18 than PeaceDAO, and it's functioning fine with the contributions
19 that people are making to that cause. So why shouldn't we
20 pause and sort out the respective rights and interests in this
21 case?

22 MR. SINGH: Yes, Your Honor, I can address that
23 question.

24 So, first of all, PeaceDAO consists of more than simply
25 the operation of Juicebox. Juicebox handles one aspect of what

1 a DAO is. And that's simply managing the treasury. And when I
2 say "by managing the treasury," that means money going into
3 some sort of account and the treasury spitting out tokens.

4 Now, Juicebox does not handle any other aspect --
5 necessary aspect of a DAO. It doesn't handle governance;
6 that's still done on Snapshot. It doesn't handle community
7 discussions; that's still done on Discord. And --

8 THE COURT: But Snapshot and Discord are not
9 necessarily -- they're not on the Movement platform; right? I
10 mean, they're obviously not on the Movement platform because
11 there is no MovementDAO platform.

12 MR. SINGH: Well, the PeaceDAO Discord channel exists
13 on the MovementDAO Discord channel. And Snapshot for PeaceDAO
14 is separately managed, but it was the MovementDAO contributors
15 and community, including Mr. Reed and Mr. Phillips, that were
16 managing those aspects of PeaceDAO. So if -- if --

17 THE COURT: So what would change?

18 MR. SINGH: Well, if the community members, including
19 defendants here, are simply not getting paid and don't have
20 access to the endowment, they're not going to manage PeaceDAO
21 anymore.

22 THE COURT: Oh, okay. So what you're explaining to me
23 is that PeaceDAO is being -- the people who are running
24 PeaceDAO are Mr. Reed and Mr. Phillips.

25 MR. SINGH: Amongst --

1 THE COURT: And they're getting paid by -- through the
2 MovementDAO money.

3 MR. SINGH: That's correct, Your Honor.

4 THE COURT: So that subDAO is not creating its
5 own -- it doesn't have enough funds to pay them? I mean, I
6 don't understand.

7 MR. SINGH: It doesn't have its own management
8 structure, Your Honor. The PeaceDAO was launched by
9 MovementDAO. And so MovementDAO members, including
10 Mr. Phillips, set up the Juicebox. It set up the Snapshot
11 platform. It set up the Discord channel. Now --

12 THE COURT: Okay. So it wouldn't surprise you that
13 MovementDAO people are -- that the people who started
14 MovementDAO are saying, well, yeah, we started PeaceDAO. Maybe
15 the same people.

16 MR. SINGH: Sure, Your Honor.

17 So PeaceDAO was started when Mr. Breslow provided the
18 instruction to MovementDAO to launch PeaceDAO. And so once he
19 provided that instruction, Mr. Phillips who wasn't being
20 separately paid by PeaceDAO, went and set up the Juicebox page
21 for PeaceDAO to manage the treasury aspects of it, and other
22 members of MovementDAO then went up and set up the Discord
23 channel, set up the Snapshot page, and set up the governance
24 for PeaceDAO.

25 THE COURT: I see. And so it's your representation

1 that Breslow and Gordon knew that PeaceDAO was some subsets and
2 function of MovementDAO and that everyone was going to get paid
3 out of MovementDAO?

4 MR. SINGH: Yes, Your Honor. There is no separate
5 employees or managers for PeaceDAO other than the MovementDAO
6 members, as far as I know.

7 THE COURT: And the reason that you say Breslow and
8 Gordon knew all of this was happening was because it says in
9 the MIPs that this is -- that this can happen.

10 MR. SINGH: I don't know if the MIPs themselves refer
11 to PeaceDAO. But, Your Honor, every aspect of the DAOs,
12 PeaceDAO, MovementDAO, it's all fully transparent. Everything
13 is on the blockchain. It's in MIPs. It's in written
14 proposals. It's in Discord chat.

15 And, Your Honor, the underlying bases of plaintiffs'
16 case is all built on those public documents.

17 THE COURT: So Breslow and Gordon would have to go to
18 those public documents to realize that PeaceDAO is being
19 funded, all -- or that the people working for PeaceDAO are
20 being funded from MovementDAO, and if they went and looked,
21 they would find that out.

22 MR. SINGH: They wouldn't have to go to the documents,
23 Your Honor. Mr. Breslow directed MovementDAO to do so through
24 Mr. Phillips and through Mr. Gordon. Mr. Gordon was actively
25 involved in governance and community management. They were

1 both active players in the space and knew what was going on.

2 THE COURT: And they knew that the money to pay
3 Mr. Phillips and Mr. Reed was coming out of MovementDAO month
4 after month?

5 MR. SINGH: That's right, Your Honor. Everything is
6 public here. Defendants' case is built on public documents.
7 They could have accessed them at any time and looked exactly
8 what was going on.

9 THE COURT: Right. But that's what I was just saying.
10 You are saying that the only way they would have known about
11 it, though, is if they accessed it.

12 MR. SINGH: Yeah, and they had access to it.

13 THE COURT: Right. I mean, I don't have access to it.
14 But what would make me go and look?

15 MR. SINGH: Your Honor, you're not a -- you were not an
16 early contributor to MovementDAO, as far as I know. And so
17 they were contributors.

18 THE COURT: And any --

19 MR. SINGH: They had a vested interest in keeping track
20 as to what was going on. They were members of the Discord
21 channel. They had access to the Snapshot platform.
22 Anytime --

23 THE COURT: I think your argument is, well, now we
24 found out that this is going on and we don't want it to go on
25 anymore. Why is that not okay?

1 MR. SINGH: Yes, Your Honor.

2 I mean, as plaintiffs authorized the governing
3 documents of MovementDAO -- and we're talking about the
4 GitBook, the Guiding Principles, the terms of use, as well as
5 the MIPS that had been passed in August of 2022.

6 Now, we don't contest that plaintiffs should have
7 voting rights. But the governing documents also state that
8 plaintiffs were committed to a six-year lockup.

9 And so we're fine if they, after their lockup, want to
10 vote to close down the DAO. That's fine. But they committed
11 to a lockup. And based on that commitment, they recruited
12 other members of the community to contribute to the DAO, to
13 leave their jobs and work for the DAO, and that speaks to the
14 irreparable harm here, Your Honor. Members of the
15 community who left their --

16 THE COURT: Who did MovementDAO recruit to work for
17 MovementDAO?

18 MR. SINGH: Two of our clients, Your Honor.
19 Mr. Phillips left the SEC to work for MovementDAO. Mr. Reed
20 left his previous job at T-Mobile to work for the DAO.

21 THE COURT: But I -- I don't see any employment
22 contracts with Mr. Reed. I do see a contract with
23 Mr. Phillips.

24 MR. SINGH: So Mr. --

25 THE COURT: And I don't think that it's quite accurate

1 that he left the SEC. I think he has already testified to
2 that.

3 MR. SINGH: Mr. Phillips left the SEC -- his testimony
4 was that he left the SEC --

5 THE COURT: But he worked for a company who worked --
6 who was a contractor.

7 MR. SINGH: Sure, Your Honor.

8 He left his position as a subcontractor to the SEC --

9 THE COURT: Right.

10 MR. SINGH: -- who worked for Mr. Breslow during that
11 first-month period and that was based on the understanding they
12 reached.

13 THE COURT: Okay. There was an IC agreement, right.

14 MR. SINGH: Yes. And thereafter continued that work
15 based on the understanding that was reached.

16 THE COURT: The additional 1.75 million. But then how
17 does Mr. Reed come into play?

18 MR. SINGH: Mr. Reed was recruited to work on the DAO
19 as well in August of 2022.

20 THE COURT: By whom?

21 MR. SINGH: By Mr. Phillips and the DAO itself. The
22 DAO expressed a need to help for -- further help with
23 governance and management of the DAO because Mr. Phillips was
24 entrusted with simple engineering and --

25 THE COURT: So at that point the DAO was voting for

1 itself. It was managed by itself, is what you are saying.

2 MR. SINGH: That's correct, Your Honor.

3 THE COURT: But, according to plaintiffs, that
4 management was really through this law firm that controlled all
5 of the votes; correct?

6 MR. SINGH: No, Your Honor. Management has always been
7 through community participation and voting.

8 THE COURT: Right.

9 MR. SINGH: Voting took place on Discord or through
10 NFTs, and MAPES, and on Snapshot. And our testimony -- our
11 position and Mr. Phillips' testimony has been that he consented
12 with each one of plaintiffs before voting the DAO-lawfirm
13 account, which -- which held the votes because --

14 THE COURT: And that part is the part that is not in
15 writing, these consults that he had individually with
16 Gordon --

17 MR. SINGH: Well, yes, Your Honor. That was part of --

18 THE COURT: -- and Breslow --

19 MR. SINGH: -- Mr. Phillips' the oral testimony, but we
20 do have text messages between Mr. Phillips and plaintiffs where
21 he directs them in August 2022 to read the MIPS.

22 And so when we're talking about irreparable harm here,
23 Your Honor, it's community members who have contributed money,
24 community members who have contributed their work and efforts.
25 Mr. Reed and Mr. Phillips left other jobs to come work on this

1 project, and the public has an interest in seeing their efforts
2 being rewarded and that the platform and the DAO should
3 continue to operate. The platform should be continued -- the
4 platform should be completed such that it can fund social
5 movement efforts.

6 THE COURT: I understand your position.

7 MR. SINGH: Also, as to irreparable injury, we're
8 talking about monetary damages here. The possibility, the mere
9 possibility alone that adequate compensatory relief will be
10 available at a later date weighs heavily against the claim of
11 irreparable injury.

12 THE COURT: Where would that compensatory relief come
13 from?

14 MR. SINGH: Your Honor, Mr. Phillips has testified that
15 he is a well-compensated developer. And plaintiffs' testimony
16 speaks to the market rate for Mr. Phillips' work. He was paid
17 approximately \$2 million worth of money and token contributions
18 in a single month, from One Of he would be making on a monthly
19 basis between 10,000 to \$180,000. He has access to other
20 contracting opportunities. And Mr. Reed also was employed; he
21 managed multiple businesses.

22 And so there has been no showing that either defendant
23 is insolvent and there is no showing that the possibility of
24 compensatory relief is -- is not an option at a future date.

25 THE COURT: Okay. So it's their burden to show that

1 they could -- that suing Mr. Phillips for \$16 million and
2 getting him to pay the money, in the event all of this money is
3 dissipated, is --

4 MR. SINGH: That's plaintiffs' burden, Your Honor.

5 THE COURT: Plaintiffs' burden must show that they
6 can't just get this money out of Mr. Phillips.

7 MR. SINGH: That's right. And there has been no
8 showing to that effect.

9 THE COURT: Well, in a sense it has, because their
10 argument is, well, Mr. Phillips is getting that money from
11 them. He is using their money essentially as his revenue and
12 his income. So if he had this money, otherwise, why wouldn't
13 he just put his money into MovementDAO?

14 MR. SINGH: Well, Your Honor, Mr. Phillips' testimony
15 has been that he received income from One Of as well. And
16 \$180,000 a month annualizes out to over \$2 million a year. And
17 with the issue of funding specifically, Mr. Phillips
18 and -- it's uncontested that this was initially plaintiffs'
19 vision to build this DAO and Mr. Phillips was brought in, in
20 part to execute on that vision.

21 And so when it comes to the question of why isn't
22 Mr. Phillips funding this project? It's because it was
23 initially plaintiffs' vision. They chose to fund it. And
24 defendants now have been individually funding aspects of this
25 project out of their own pockets, since the endowment has

1 been -- since the endowment has been frozen pursuant to the
2 TRO. And Mr. Phillips also earlier contributed to expenses of
3 MovementDAO before August, and those expenses weren't
4 reimbursed. So I wouldn't say it's accurate that Mr. Phillips
5 hasn't put any of his own money into the DAO.

6 THE COURT: Okay. So you're making the argument that
7 there is a likelihood of success on the merits because there is
8 agreement from the plaintiffs for this money to be spent, even
9 though --

10 MR. SINGH: Your Honor, we are arguing that the --

11 THE COURT: -- and the MovementDAO's agreement to --

12 MR. SINGH: Sorry, Your Honor.

13 THE COURT: -- spend this money.

14 MR. SINGH: Sorry, Your Honor.

15 We are arguing that there is no likelihood of success
16 on the plaintiffs' claim.

17 THE COURT: I understand. That they won't succeed
18 because the documents are all showing that the MovementDAO
19 controls this money now, and not Mr. Breslow, and Mr. Gordon,
20 and Mr. Fine. I understand.

21 MR. SINGH: That's correct, Your Honor.

22 We will show -- our argument is that the great weight
23 of the evidence shows that MovementDAO launched. And we know
24 that because MovementDAO was promoted on social media;
25 plaintiffs themselves promoted on social media; MovementDAO

1 accepted monetary contributions from just plaintiffs as well as
2 members of the public.

3 And this is an interesting point: If MovementDAO
4 hadn't launched, why did plaintiffs move money from their own
5 wallets to the MovementDAO Gnosis? If Plaintiff's position is
6 simply that they were just funding expenses and it was still
7 theirs, they could have kept the money in their own wallet.
8 But moving money to the Movement Gnosis was a signal that it
9 was no longer their money. It was Movement Gnosis's money.
10 They could have kept it in their own accounts; they didn't.

11 THE COURT: And then I'm curious as to why there is no
12 MovementDAO platform.

13 MR. SINGH: Your Honor, we were prepared to testify to
14 that, if we were provided further time. But essentially,
15 Mr. Phillips completed a version of the platform at the
16 conclusion of his independent contractor agreement with
17 Mr. Breslow. Since then, there was a decision to add
18 additional functionality to the platform that would
19 differentiate it from other services available on the market.

20 And because there is continually demands for additional
21 features, additional security, my understanding is the platform
22 is very close now to being completed, but it was just they
23 wanted to add features; they wanted to make sure it worked
24 correctly; they wanted to make sure that there was, in
25 particular, protections that platform wouldn't be used to

1 easily commit SEC violations, that's the unregistered offering
2 of securities, by creating a simple Juicebox-type service where
3 anybody can create a DAO, anybody can create a, sort of, pump
4 and dump scheme and face the ramifications of doing so.

5 MR. BERG: Your Honor, I have to object. None of that
6 is in evidence.

7 THE COURT: No. So that -- because I'm just asking for
8 argument at this point. And he explained why it's not in
9 evidence.

10 So -- so let me see if I understand.

11 The concern and the fears of illegality are that people
12 will supply funds for a DAO, and whoever is managing the DAO
13 will just simply take the money and that money will not go to
14 the -- to whoever it's purported to -- supposed to have gone
15 to; correct? Is that the concern?

16 MR. SINGH: Your Honor, that's certainly one concern,
17 and it's every concern associated with the unregistered
18 offering of securities, Your Honor.

19 THE COURT: Okay.

20 MR. SINGH: And so --

21 THE COURT: Is that a concern of MovementDAO anyway;
22 right? That people who are unauthorized might take the funds
23 and not use them for the social impact projects. That's --
24 that's the fear.

25 MR. SINGH: That's a potential -- well, Your Honor, the

1 concerns specifically with MovementDAO is that it be seen as an
2 unregistered offering of securities; in that, if there is a
3 profit motive with respect to the DAO, and you're selling an
4 interest in the DAO, without having specific disclosures,
5 without ensuring that the contributors are, say, accredited
6 investors, that's the underlying concern. And we know that
7 from Mr. Phillips' testimony that the SEC has been very
8 aggressive pursuing crypto-related fundraising. It's suing
9 DAOs. It's suing other crypto operations. And that's --

10 THE COURT: Okay. So that the concern is that
11 maybe -- I'm just trying to understand what the concern is.
12 That Breslow and Gordon are going to solicit money in this
13 MovementDAO and -- and they're going to make -- they're going
14 to invest it and make a profit on this money. Even if they are
15 using it at -- some of it for the project, they're really just
16 doing it to invest it. That there are people who do this.

17 MR. SINGH: Well, Your Honor, the concern, I think,
18 specifically is that they're promoting MovementDAO as a
19 profit-making scheme. And so what typically happens --

20 THE COURT: As a profit-making scheme for whom? Who is
21 going to make the profit?

22 MR. SINGH: For anybody that holds the tokens.

23 THE COURT: Oh, okay.

24 MR. SINGH: So, Your Honor --

25 THE COURT: Not just anyone.

1 MR. SINGH: Sure, Your Honor. So the issue typically
2 with cryptocurrency and DAOs is that a project or a token
3 offering is made, and that token offering is promoted as a
4 profit-making scheme, and people will purchase the tokens. The
5 tokens will dramatically increase in value, and then they will
6 sell the tokens. And if there isn't a, sort of, nonprofit
7 basis and a careful control of what you can purchase and sell
8 those tokens for, it's -- it's a security. And an unregistered
9 offering of securities is the issue here.

10 THE COURT: And help me understand this issue. So
11 let's say Mr. Breslow and Mr. Gordon, Mr. Fine, did say: Well,
12 at one point we want to put this money in here and freeze it
13 for six years, and then change their minds and say, well, no,
14 we don't, what's wrong with that?

15 MR. SINGH: Well, Your Honor, we don't see anything
16 wrong with that, if they can get buy in from the community as a
17 whole. And so when Mr. Phillips -- I'm sorry -- when
18 plaintiffs expressed to the DAO that they wanted to pull their
19 money out, the DAO convened this emergency committee. That
20 emergency committee was then pulled as to whether they --
21 all members of the community wanted to engage in the shutdown,
22 whether they all wanted to pull their money out. And the vote
23 of the emergency committee was, no, they believed in the
24 project, they wanted to keep their money in, and they didn't
25 want to wind down operations and pull their money out.

1 THE COURT: They could keep their money in. What's
2 wrong with certain individuals taking their money out?

3 MR. SINGH: Well, Your Honor, there is nothing wrong
4 with it if they hadn't made that commitment to keep their funds
5 locked in. And it was that commitment that enticed other
6 members of the community to put their money in.

7 THE COURT: So --

8 MR. SINGH: So if they hadn't made that --

9 THE COURT: -- what could happen; right? They could
10 sue.

11 I mean, I guess I want to understand what the remedy
12 is. Do these other -- let's say -- after all, it's Mr. Breslow
13 and Mr. Gordon's money, Mr. Fine's money. Let's say they say,
14 okay, you know, we are going to take it out. We're going to go
15 home with our marbles. Isn't the remedy, then, for the other
16 individuals -- they can vote, do whatever they want -- but at
17 the end of the day, if they took their money, wouldn't the
18 individuals then just have a cause of action against these
19 individuals because they were induced to invest because of
20 them?

21 MR. SINGH: Sure.

22 THE COURT: Would that really be the remedy?

23 MR. SINGH: Sure, Your Honor. I think there is
24 multiple remedies and multiple causes of action that are
25 potentially -- potentially can be brought here.

1 First, we -- we analogize the situation to any donation
2 or contribution to a charity; in that once you give the money
3 to that nonprofit, to that charity, you can't simply take your
4 money out.

5 Second, once they put the money in MovementDAO, if they
6 wanted their money back out, they should -- they need to come
7 to an agreement with MovementDAO or sue MovementDAO for breach
8 of contract if they think there is a contract claim, if they
9 force their money out through -- without consent of
10 MovementDAO, MovementDAO would have a contract claim against
11 plaintiffs.

12 THE COURT: All right.

13 MR. SINGH: But they haven't been able to do that
14 because they don't hold the keys, admittedly. But yes,
15 Your Honor, other members of MovementDAO could also sue
16 plaintiffs should plaintiffs successfully pull their money out
17 of the MovementDAO.

18 THE COURT: So all of this works because the -- these
19 investors have equal control with -- with -- everyone has equal
20 control who is invested in the MovementDAO.

21 MR. SINGH: I wouldn't say there is equal control,
22 Your Honor. Waiting -- I think contributors' contribution -- I
23 wouldn't call it an investment because that speaks to a
24 profit-making motive. An individual's contribution to
25 MovementDAO is a -- is the primary basis for their voting

1 power. But --

2 THE COURT: Okay.

3 MR. SINGH: -- in this particular case, because
4 plaintiffs sought to take action that was antithetical to the
5 DAO and in violation of their commitments to the DAO to keep
6 their funds looked up, they were not permitted to vote their
7 shares in a manner that would breach their contract and breach
8 their obligations to the --

9 THE COURT: And exactly who stopped them from voting
10 their shares?

11 MR. SINGH: The emergency committee convened and
12 recommended that the service providers to the DAO take action
13 to strip their votes of plaintiffs.

14 THE COURT: And who on the emergency committee has the
15 most weighted votes?

16 MR. SINGH: I don't know the answer to that,
17 Your Honor. But I believe that when the emergency committee
18 was convened, they were each voting equally at that point.

19 THE COURT: Okay. So everyone had an equal vote,
20 regardless of their amount of money they contributed?

21 MR. SINGH: That's my understanding.

22 THE COURT: Everybody except the people who contributed
23 the most.

24 MR. SINGH: Plaintiffs were not a part of the emergency
25 committee. But I also want to challenge the characterization

1 that -- that other members other than plaintiffs didn't
2 contribute significant money. We had brought Mr. Mallory who
3 contributed, I believe, \$200,000 to the Movement Gnosis.

4 THE COURT: I see.

5 MR. SINGH: Mr. Phillips' contributions to the Gnosis
6 were made on -- by Mr. Breslow's behalf pursuant to their
7 independent contractor agreement. So when Mr. Breslow and his
8 counsel argue that they contributed 97 percent of the funds,
9 they're not taking into account that 10 percent of those
10 founder contributions were made on behalf of Mr. Phillips,
11 pursuant to that earlier agreement.

12 THE COURT: Right. Well, okay. I think I understand
13 your position. Is that everything you need to present within
14 your argument?

15 MR. SINGH: No, Your Honor, I would like to speak
16 briefly to the -- why plaintiffs haven't met their burden on
17 issues such as successfully -- successful likelihood that they
18 will succeed on their merits. And I can run through those
19 pretty quickly for Your Honor, just so -- just to provide you a
20 summary, and to respond to some of plaintiffs' points.

21 The great weight of the evidence shows that there was a
22 launch. And we talked, Your Honor, the fact that it was
23 promoted; they were accepting monetary contributions from
24 third parties. Members of the community engaged in governance.
25 They went through the complicated process. And Your Honor will

1 see that there is thousands of pages of MIPS and proposals. If
2 that wasn't binding, if that was simply advisory, why go
3 through that expensive and time-consuming process?

4 We also provided testimony and evidence that, as a
5 result of such voting, the DAO was memorialized as a Delaware
6 unincorporated nonprofit association. It had its own IRS EIN.
7 Now, if it hadn't launched, why was it a separate entity? Why
8 did it have its own tax number? Why did it have its own tax
9 obligations? And the DAO engaged in business. It hired and
10 paid people.

11 Now, if plaintiffs' contention is that they were in
12 control, it was all their operation, why isn't there any
13 documents or conduct or evidence showing that? Why weren't
14 they involved in the hiring? Why weren't they responsible for
15 tax issues? They didn't issue W-2s or 1099s to anybody who
16 provided services in relation to the DAO.

17 There are over 5,500 pages of exhibits exchanged
18 between the parties. There isn't a single document that shows
19 that voting on the MIPS was nonbinding and advisory in nature.
20 Instead, the GitBook explicitly states that the voting was done
21 pursuant to the MIPS and -- sorry -- pursuant to the NFTs.
22 There isn't a single document that shows that
23 defendants -- sorry -- that plaintiffs were all dissatisfied
24 with the efforts of Mr. Phillips and defendants prior to
25 December 2022.

1 Now, they've expressed repeatedly that they had issues,
2 they had concerns, yet there is no text messages, there is no
3 documents, there is no paper trail showing they had any issue
4 up until December 2022 when their own financial concerns caused
5 them to withdraw money from the DAO.

6 THE COURT: Yeah, but I guess I just don't understand
7 the governance issue. So let's go to the governance voting
8 document where it says in the -- in the GitBook, "Snapshot
9 voting strategies during the MovementDAO will employ a
10 governance token available to individuals who stake \$MOVE."
11 But there is no \$MOVE tokens.

12 MR. SINGH: Well, Your Honor --

13 THE COURT: And then it says: "However, during the
14 bootstrapping phase of the DAO, community contributions, and
15 based on participation, will be granted a MAPE-1420 NFT which
16 will be employed for initial governance." I'm not sure what
17 that means --

18 MR. SINGH: Your Honor --

19 THE COURT: -- this bootstrapping phase --

20 MR. SINGH: Sure.

21 THE COURT: -- and initial governance, and then details
22 to follow.

23 But it's very clear that, "Snapshot voting strategies
24 during the MovementDAO will employ a governance token available
25 to individuals who stake \$MOVE."

1 MR. SINGH: Yes, Your Honor.

2 So the bootstrapping phase is the phase prior to the
3 Movement tokens being issued. And the parties all agreed that
4 the parties would -- all contributors and all members of the
5 MovementDAO would use their MAPE NFTs to vote on the Movement
6 Improvement Proposals until the tokens were launched.

7 THE COURT: And when are the tokens going to be
8 launched?

9 MR. SINGH: Your Honor, my -- I don't have an exact
10 timeline on that, but my understanding, it would be soon.

11 THE COURT: Why haven't they been launched already?

12 MR. SINGH: Sure, Your Honor.

13 The idea was they needed to set up a clear structure to
14 separate the nonprofit aspects of the MovementDAO from the
15 profit-motivated opportunities that plaintiffs were seeking.
16 So --

17 THE COURT: Oh, plaintiffs were seeking profit-motive
18 opportunities?

19 MR. SINGH: That's correct, Your Honor.

20 THE COURT: Where do I find that in the record?

21 MR. SINGH: Your Honor, we had to, unfortunately,
22 minimize some of the testimony. But if you look to the
23 testimony of Mr. Breslow, Mr. Breslow talks about discussions
24 he had with Mr. Phillips concerning setting up structures. And
25 so the idea was that there would be MovementDAO, which is the

1 Delaware unincorporated nonprofit association, and then there
2 would be a series of other LLCs and entities, including
3 DAOLabs; there would be a DAOLabs IP holding.

4 And the basic idea was that certain IP developed by
5 MovementDAO would be moved to the DAOLabs IP holdings. That IP
6 company would ultimately be owned by Mr. Phillips and others,
7 and that could license IP to MovementDAO and other entities,
8 and there would be an opportunity to make money off of that IP
9 licensing.

10 THE COURT: And where will I find that in Mr. Breslow's
11 testimony?

12 MR. SINGH: Mr. Breslow spoke briefly about that
13 subject when we were -- when there was a discussion and text
14 message exchange between Mr. Phillips and Mr. Breslow regarding
15 the formation of structures. I don't have that exhibit number
16 in front of me right now, but I can provide it to you later on.

17 THE COURT: Yes.

18 MR. SINGH: And Mr. Phillips was prepared to testify to
19 those structures and the, kind of, ideas that the parties had
20 discussed.

21 THE COURT: Mr. Phillips did testify.

22 MR. SINGH: We didn't have -- Your Honor, we shortened
23 his testimony to accommodate the Court's concerns concerning
24 timing.

25 THE COURT: I see. So Mr. Phillips would have

1 testified that he had discussions with Mr. Breslow with respect
2 to some sort of profit motive --

3 MR. SINGH: Yes, Your Honor. And --

4 THE COURT: -- for MovementDAO.

5 MR. SINGH: That's correct. And Mr. Phillips had --

6 THE COURT: Or would they have been for other types of
7 businesses that they would have done separately? I just want
8 to understand.

9 MR. SINGH: Sure.

10 It would be related to the MovementDAO IP. And so the
11 idea is, Mr. Phillips and the development team spend a
12 significant amount of time developing MovementDAO IP in the,
13 kind of, software that they created, which now is something
14 like 20 million lines of code. That software and that platform
15 could be commercialized --

16 THE COURT: Could be.

17 MR. SINGH: Could be. Okay.

18 THE COURT: Okay.

19 MR. SINGH: But it couldn't be commercialized under
20 Movement DAO as an unincorporated nonprofit association because
21 it is supposed to be a nonprofit effort. So that IP would be
22 moved to a separate entity. And Mr. Phillips had discussed
23 that structure of those separate entities with both Mr. Breslow
24 and Mr. Yurchak. And that discussion is reflected in e-mails
25 with Mr. Yurchak that were excluded due to the limited purpose

1 basis.

2 THE COURT: Okay. All right. Anything else?

3 MR. SINGH: Yes, Your Honor.

4 I just want to note that plaintiffs' arguments depend
5 on a certain amount of mental gymnastics here. On the one
6 hand, they argue that the GitBook is the governing document and
7 that Mr. Phillips violated covenants of that GitBook. But, on
8 the other hand, they seem to argue that the GitBook itself had
9 not launched or the GitBook itself was not enforceable due to
10 there not being a launch.

11 And if you look to -- to plaintiffs' argument, they
12 follow the same kind of concern, in that there is a lot of
13 mental gymnastics here. They claim that everything was being
14 hid from them, yet they're relying solely now on publicly
15 available documents that they always had access to, that they
16 were pointed to and discussed with throughout the course of the
17 relationship.

18 THE COURT: Okay. I think you've made that point.

19 MR. SINGH: With respect to Mr. Yurchak's testimony, I
20 want to note that his testimony was wholly unreliable. He
21 repeatedly contradicted his earlier declaration submitted under
22 the penalty of perjury. Mr. Yurchak's testimony was so bad,
23 that on redirect the only questions asked of him were to
24 correct testimony on cross, so as to not suborn perjury. But
25 Mr. Yurchak admitted and plaintiffs have not disputed that the

1 only person associated with Mr. Yurchak's firm that could
2 provide any cryptocurrency services was Mr. Phillips.

3 Everybody always knew -- and Mr. Phillips is the only
4 one associated with Mr. Yurchak's firm that was providing
5 services with regard to the DAO-lawfirm account.

6 Your Honor, I will just close by saying that plaintiffs
7 have a significant burden here. They haven't met that burden.
8 And something more must be required before the Court issues a
9 preliminary injunction which will have the effect of
10 essentially shutting down the DAO. Without its funds, it can
11 no longer fund operations; it can't pay for developers; it
12 can't pay for actually launching the platform. And now the
13 year and a half's worth of the work, the contributions from the
14 community, will all be for naught.

15 With that, we will submit, Your Honor.

16 THE COURT: All right. Thank you.

17 Mr. Berg, you have five minutes.

18 MR. BERG: Okay.

19 THE COURT: I'm curious to know what would happen to
20 these contributions from the community if I have -- if the
21 preliminary injunction is granted? They will still be
22 preserved; right?

23 MR. BERG: Correct, Your Honor.

24 THE COURT: Okay.

25 MR. BERG: That's right. We're just asking for a

1 freeze.

2 THE COURT: Okay.

3 MR. BERG: We will -- once the PI is granted, we
4 will -- as part of our motion to hold defendants in contempt
5 for failing to comply with the TRO, we have asked that the
6 funds in the endowment account be either converted to cash and
7 held in escrow with the clerk, or we can set up some sort of
8 escrow regime in cryptocurrency to save those transaction costs
9 because their pattern of noncompliance warrants that. But the
10 endpoint is the same. Everything is just frozen in place until
11 we could hash out who properly is entitled to this money.

12 THE COURT: Okay.

13 MR. BERG: A few points, Your Honor. I won't take
14 long. PeaceDAO; it's a red herring. There is -- Mr. Phillips
15 was not being -- there is no evidence that Mr. Phillips was
16 being paid for PeaceDAO. It's not in any operational budget.
17 You can look at Exhibit 90; you won't find it there.

18 Mr. Singh said that defendants were fine with
19 plaintiffs' voting. But the point is they were stripped of
20 their votes. And this emergency committee, where the -- the
21 proposal to redeem Mr. Breslow's generous proposal for a
22 one-to-one redemption, where he would take the loss for
23 everything, and just give everyone back the exact amount they
24 contributed, those were never presented by plaintiffs to the
25 committee.

1 The emergency committee was a coup, not a vote. It was
2 held in the deep of night. It was one-sided. It was presented
3 by Mr. Reed and Mr. Phillips with very one-sided articulations
4 of what was happening. And they were judge, jury, and
5 executioner.

6 THE COURT: So were plaintiffs aware of this emergency
7 committee meeting?

8 MR. BERG: No, they weren't.

9 THE COURT: Could they have been aware if they had
10 looked at this Snapshot?

11 MR. BERG: No. Never -- never --

12 THE COURT: Was it posted on the Snapshot?

13 MR. BERG: All of this transparency and the -- the main
14 acts of fraud and breach of duty, all of this transparency,
15 they were not posted. So what happened was in January -- early
16 January when Ryan Breslow finally sent his e-mail and said:
17 Mr. Phillips, here are a list of things that we think you're
18 doing that are fraudulent, this has got to stop, communication
19 went silent about a month and a half, five weeks maybe.

20 And during that period, these emergency committee
21 meeting minutes were -- or emergency committee meetings were
22 held. Only after, not just his presentation for redemption,
23 but after Mr. Breslow accused Mr. Phillips of fraud. That's
24 when they happened.

25 The evidence shows that the redemption proposal was

1 being made in early December, and even before that. That's
2 when --

3 THE COURT: What is the redemption proposal? I want to
4 make sure I'm clear on what you're saying.

5 MR. BERG: Ryan Breslow's redemption proposal: DAO
6 community, all contributors, we are uncomfortable with how the
7 development of the project is going. I want to --

8 THE COURT: I see.

9 MR. BERG: -- return your contributions, even though
10 there has been the 1.75 million, there has been all of these
11 additional expenses. I, Ryan Breslow, am going to eat those
12 costs and give back everyone their money, so everyone is back
13 to status quo, pre whenever you contributed. Very generous
14 offer. Would have cost him a lot of money. But that is what
15 triggered -- and there is evidence that we didn't put in today
16 that we will do so at trial, that will show that it's that
17 redemption offer -- there is actually -- there is emergency
18 committee meetings, but there is also authorized member
19 meetings between Ben Reed and Mr. Phillips alone. And that's
20 where you see the resolutions that say "the redemption proposal
21 is why we're doing this." Right?

22 And the notion that there was a committee -- a large
23 participation by the DAO community, there were five or six
24 people on these committees, and they're all friends of
25 Mr. Phillips. This is not a transparent communal situation.

1 This is a farce. This is a way to get the guys out, take the
2 money, because they're getting -- they're savvy up to our
3 scheme. That's what this is.

4 Look -- and we will prove that in time. I think we
5 presented more than enough evidence to show that something is
6 rotten in Denmark. And all we need is time.

7 We haven't taken a single bit of discovery in this
8 case, and look how much we've presented. And think about that.
9 Look at how much defendants' counsel leaves untouched.
10 Snapshot voting fraud. Wait. Was it Mr. Breslow's
11 contribution that was providing all of the votes to Snapshot?
12 Or was it all the votes of all of these contributors,
13 Mr. Montero, Mr. -- didn't touch that. Can't. Because
14 Mr. Bax's analysis is airtight, right? Mr. Phillips was lying
15 when he told you that. Right?

16 What else? Didn't touch the conversation that he had
17 with Mr. Yurchak: Provide me air cover. We will just loop
18 things through your firm and pay me. Mr. Yurchak decided --
19 look, Mr. Yurchak, you either believe him that he was a patsy,
20 or if you don't believe him, then he was in on it. Either way,
21 plaintiffs are getting defrauded. Either way. I don't know if
22 I believe it, but I know that that conversation he testified to
23 was a fraud. I know. He confirmed for me that that -- that
24 document, Exhibit 90, that false invoice, he didn't submit it.
25 But he confirmed from the document pulled from Mark Phillips'

1 declaration, that was the same one that he showed -- that
2 Mr. Phillips showed to Mr. Gordon, Mr. Breslow. Didn't touch
3 that, did they? Not with a 10-foot pole because
4 that's -- that's lava.

5 This is one important question. Mr. Singh said if
6 they -- if the MovementDAO did not launch, why contribute the
7 money? It's a great point, and I want to make sure it's clear
8 to the Court. The DAO endowment was not supposed to use
9 endowment funds to fund the Movement. It was supposed to be
10 invested. And then from that yield, you use that to fund your
11 operations. So, of course, structurally, you would need to
12 bring the funds into the DAO endowment, invest it, let that
13 generate for a while, and then you would be able to launch. Of
14 course. That's exactly why they did it.

15 Now, that didn't happen because we couldn't get the
16 dang platform on all fours.

17 THE COURT: Who was in charge of investing that money?

18 MR. BERG: That's a good question. There is -- there
19 was a discussion -- it's just not clear. I don't think it's
20 clear. There was --

21 THE COURT: There is no written agreement with that in
22 it?

23 MR. BERG: There was -- there was a MIP proposal which,
24 of course, is not authorized. But there was discussions about
25 Discord and there were -- I think there were grumblings, but it

1 never got --

2 THE COURT: Okay. Never got to that point.

3 MR. BERG: Exactly.

4 THE COURT: I see. Okay.

5 MR. BERG: Oh, the MIP voting and the MAPE NFTs. One
6 last thing. And again, I employ Your Honor to consider the
7 presentation of Nicolas Bax. It really provides a pretty
8 comprehensive treatment of the facts, not just the testimony,
9 but the data.

10 His analysis shows that Snapshot voting for those
11 foundational MIPS, not happening with MAPE NFTs. No
12 correlation with MAPE NFTs. And how many votes do you get?
13 Right? So right there, what was articulated in the GitBook is
14 not happening.

15 THE COURT: So even if MAPE NFTs were used to employ
16 initial governance, that's not what happened?

17 MR. BERG: This is just a structure designed to extract
18 money from the DAO, but provide reasonable cover. That's all
19 this is.

20 THE COURT: All right. Thank you.

21 MR. BERG: You can tell that when you -- you heard
22 Mr. Reed saying: Oh, the Discord community can move the DAO;
23 there is 500 people in it. Look at how many people are voting
24 on these proposals. It's like nine people.

25 THE COURT: All right. Well, thank you very much. I

1 think I understand the case.

2 We do have the issue of the motion that was recently
3 filed regarding how to put the money back into MovementDAO.
4 The first proposal with regard to the -- the structure of
5 moving or converting the money into crypto, I don't know if you
6 have seen the motion, Mr. Berg.

7 MR. BERG: It's very brief.

8 THE COURT: Okay. So I want to take a few minutes and
9 discuss that because I know that Judge Altman is going to refer
10 that to me as well, since it's all part of the TRO.

11 If you want to take a break for about five minutes and
12 let's come back and talk about that. I know that's very
13 important to Mr. Singh as well, because the second part of it
14 is to do with your fees.

15 So let's make sure that we give a few minutes to that
16 today, all right? So five minutes. And -- oh, let's say let's
17 be back at 3:00, and we will take about 15 minutes to discuss
18 that.

19 MR. SINGH: Thank you, Your Honor.

20 MR. BERG: Thank you, Your Honor.

21 (A recess was taken from 2:52 p.m. to 3:03 p.m.)

22 THE COURT: I just want to talk for a few minutes
23 about, perhaps, just a few questions about this motion. Oh,
24 here we go -- expedited motion for clarification of the Court's
25 February 28th order, document number 93.

1 So, first of all, defendants want to return the DAO
2 endowment assets rather than unwinding the transactions from
3 Robinhood online cryptocurrency platform at \$5,000 increments.
4 They propose a transfer of the assets subject to TRO back to
5 the endowment Gnosis through alternative means.

6 Defendants understand they can transfer the assets and
7 issue it back to the DAO endowment Gnosis through Coinbase,
8 another cryptocurrency trading platform, and that can be done
9 within 15 business days.

10 Any objection to that from the plaintiffs? I would
11 think that seems like a reasonable way to work.

12 MR. BERG: I'm a little -- well, it depends,
13 Your Honor. I'm a little confused by the request.

14 You know, Mr. Singh e-mailed me while I was on the
15 plane yesterday to meet and confer, and I e-mailed back but
16 never got a response. My question was: Have you contacted
17 anyone at Robinhood and said there is an injunction. You have
18 got to waive your \$5,000 cap and let us get this money out.

19 And I didn't get a response.

20 THE COURT: Okay. But then my other question would be,
21 also, it -- you still have to get it out of Robinhood to this
22 Coinbase platform. So somehow it would still -- I guess
23 Robinhood has no problem just transferring currency to somebody
24 else if it's still crypto, crypto to crypto.

25 MR. SINGH: Well, Your Honor, just to clarify. First,

1 Mr. Phillips did contact Robinhood in March to see if they
2 could increase the limit. Unfortunately, there is limited ways
3 you can contact Robinhood, and the person he spoke to in
4 customer service says -- he said you could not increase that
5 limit.

6 Second --

7 THE COURT: Well, you know these customer service
8 people.

9 MR. BERG: That was the chatbot you posted in this
10 exhibit right? The chatbot.

11 MR. SINGH: It was a -- the chat service, the customer
12 representative, I think --

13 THE COURT: Right. Maybe we should -- maybe you can
14 take it up to the attorney level and see what happens.

15 MR. SINGH: We can reach out to counsel, if we can find
16 them.

17 THE COURT: If you can find them. Mr. Singh, I have a
18 lot of faith in you.

19 MR. BERG: And, Your Honor, if they can't, we sure
20 will.

21 MR. SINGH: And so, Your Honor, with respect -- my
22 understanding is that when you transfer cryptocurrency from out
23 of the Robinhood account, there is a \$5,000 transaction limit.
24 There isn't a similar limit when you withdraw money out of
25 Robinhood into your own bank account.

1 And so what we're proposing is money be withdrawn out
2 of the Robinhood account, transferred to another bank account
3 that's linked to a Coinbase account, and then that path be used
4 to transfer from Coinbase back to the MovementDAO Gnosis. And
5 Coinbase doesn't have the Dai cryptocurrency or access to the
6 Dai cryptocurrency, so we're also proposing it be sent back in
7 U.S. dollar coin, which is a, sort of, equivalent stablecoin
8 cryptocurrency.

9 THE COURT: Plaintiff.

10 MR. BERG: Are there significant transaction costs with
11 the Dai to USDC, Mr. Singh?

12 MR. SINGH: I think it's just the same as if we were to
13 go back through this process. Because when we
14 were -- when -- when Dai was taken out of the Gnosis, it was
15 converted to ETH. So there was a conversion from Dai to ETH
16 that incurred a transaction cost. When it was put into
17 Robinhood and then converted to cash, there was a transaction
18 cost. And so these transaction costs are unavoidable if we're
19 unwinding the transaction.

20 And so if we're incurring the transaction costs to
21 unwind these transactions, our preference is to move it back as
22 fast as we can, instead of using the "\$5,000 at a chunk"
23 method. That would be construed as a strict unwinding of
24 transactions.

25 THE COURT: But it requires you to put the -- take the

1 money from Robinhood and put it into whose personal account?

2 MR. SINGH: So the Robinhood account is already
3 Mr. Phillips' personal account.

4 THE COURT: Uh-huh.

5 MR. SINGH: And that is linked to his personal bank
6 account.

7 THE COURT: Uh-huh.

8 MR. SINGH: And so we would be moving money from his
9 personal bank account to the DAO-lawfirm checking account.

10 THE COURT: Uh-huh.

11 MR. SINGH: I'm sorry. DAOLabs checking account.

12 THE COURT: Okay.

13 MR. SINGH: From the DAOLabs checking account would be
14 going to the DAOLabs Coinbase account. And from the DAOLabs
15 Coinbase account, it would go to the Movement Gnosis.

16 Now, the problem also is that Mr. Phillips has a
17 personal Coinbase account, but that Coinbase account is now
18 restricted after they were provided notice of these
19 proceedings. But my understanding is that the DAOLabs Coinbase
20 account is not yet restricted.

21 MR. BERG: Here is my concern, Your Honor. Recent
22 revelations about the accountings that defendants have provided
23 have indicated to me --

24 THE COURT: Move closer to the microphone just to make
25 sure --

1 MR. BERG: -- have indicated to me that it's not
2 clear -- we don't have a situation where we had: Here are the
3 eight accounts that received MovementDAO funds. This is how
4 much MovementDAO funds are within each of these accounts, and
5 this is the total balance. Which is to say, in other words,
6 these accounts are commingled. And I don't have a good sense
7 about how much plaintiffs -- or, excuse me, defendants are
8 claiming still has been unspent. Unclear to me.

9 I don't know how much is still in their control. If we
10 start bouncing funds to all these commingled accounts, it's
11 going to be hard to get my arms around something when I don't
12 have a clear representation from defendants about what is what.

13 So what I propose in the alternative is give us a week.
14 We will endeavor to contact Robinhood, as I hope defendants do
15 as well, and we will -- it's been our experience with this TRO
16 that these Coin -- these cryptocurrency exchanges don't see
17 injunctions from federal courts very often, and when they do
18 they are quite compliant. So I think there is a simpler way to
19 get this done.

20 THE COURT: But --

21 MR. BERG: If we're not successful, then I think we
22 could be okay. I think we will -- we can communicate our
23 position in a week, 10 days, through a response to the motion;
24 that way you would have an understanding of where we are after
25 we've looked into it --

1 THE COURT: Okay.

2 MR. BERG: -- and you can decide accordingly.

3 THE COURT: Isn't the Robinhood account frozen anyway?
4 Or is it not frozen?

5 MR. SINGH: The Robinhood account is not frozen.
6 Robinhood, as a platform, institutes these \$5,000 limits.

7 THE COURT: Right. So, really, the -- maybe the
8 Robinhood should be frozen. How much --

9 MR. BERG: I agree Robinhood should be frozen,
10 Your Honor. There is a limit to which our sleuthing, without
11 discovery, could bring us, but --

12 THE COURT: I see. Why haven't you done any discovery
13 yet?

14 MR. BERG: Because we haven't gotten to discovery yet.
15 This is all preliminary injunction.

16 THE COURT: Wow.

17 MR. SINGH: Your Honor, our position would be that the
18 Robinhood account contains both personal accounts and assets
19 that are subject to the TRO.

20 THE COURT: Okay.

21 MR. SINGH: But I think also, a related point, and this
22 is on the accounting we are providing, it would be much -- it
23 would be a much simpler process if we're permitted to return
24 assets to the Gnosis, and then we can clearly show --

25 THE COURT: But your path doesn't sound simple; right?

1 So what sounds simple is presenting the TRO or Judge Altman's
2 order to Robinhood and requiring them to comply.

3 But then Robinhood needs to know the amount that
4 they're going to comply with.

5 MR. BERG: Yeah, I mean, I think the way you would
6 convey it to Robinhood is: We have a TRO. It covers this
7 account. Lift your cap and let us move out what needs to be
8 moved out.

9 If they require more, then we can -- we can address
10 that.

11 THE COURT: Yeah, I think -- I think that seems simple
12 first.

13 MR. SINGH: Your Honor, we're happy to go with that
14 approach initially.

15 THE COURT: Right.

16 MR. SINGH: Our goal is just to move money back and
17 move assets back into the Gnosis.

18 THE COURT: Okay.

19 MR. SINGH: But, Your Honor --

20 THE COURT: So you want to try that for one week?

21 MR. BERG: Yeah, give us 10 days, if you wouldn't mind.

22 THE COURT: A week, 10 days. Okay. All right.

23 MR. SINGH: Your Honor, related, we had an additional
24 question just on the accounting before we move on to the next
25 step.

1 THE COURT: Oh, yeah. Go ahead.

2 MR. SINGH: And so, right now we've provided previously
3 accounting to plaintiffs. We are in the process of preparing a
4 further accounting that we are prepared to submit today. I
5 think the accounting will be greatly simplified if we can
6 simply just show what money was taken out of the Gnosis, what
7 money has been returned, and why certain additional funds have
8 not been returned, where they have been spent. Because right
9 now the accounting we are preparing talks about all of the
10 different accounts that may hold TRO funds, which aspects of
11 those accounts are TRO funds versus non-TRO funds? And I think
12 if we reduce that complexity by quickly moving back into the
13 Gnosis -- money back into the Gnosis, the accounting process
14 and the discussions about the accounting will be much more
15 simplified.

16 And so we're requesting an extension of time until we
17 can move back money to the Gnosis before we provide that
18 further accounting you requested of us today.

19 MR. BERG: No.

20 THE COURT: There is an accounting that has been done
21 each month; right? There was a March accounting?

22 MR. BERG: Your Honor --

23 THE COURT: There were four accountings. How would
24 this differ from what --

25 MR. SINGH: So, Your Honor, over the last few days we

1 have been moving money back into the Gnosis --

2 THE COURT: Oh, I see.

3 MR. SINGH: -- in \$5,000 increments.

4 THE COURT: Okay.

5 MR. SINGH: And we have tried to provide more clarity
6 to the accounting based on plaintiffs' objections to date.

7 THE COURT: I see.

8 MR. SINGH: So the underlying amounts are not in flux
9 aside from the \$5,000. But we're trying to -- we're trying to
10 get this in a format that's -- that's more digestible. But I
11 think that process will be aided if we can simply put money
12 back in the Gnosis and account for what's outstanding.

13 THE COURT: So what are you asking essentially, then?

14 MR. SINGH: An extension of time to provide that
15 accounting that we were going to provide later today.

16 THE COURT: How much time?

17 MR. SINGH: Well, it depends on process employed. And
18 so if we can send everything back to the Gnosis within 15 days,
19 then we can simply provide an accounting within the next few
20 days after that.

21 MR. BERG: Your Honor, the problem, before we start
22 moving more money, is I don't know how much they had. And this
23 is -- this is not -- this is not brain surgery; right? I mean,
24 I need to know how much money was moved out of the DAO
25 endowment and where it went, okay? Those accounts, where it

1 went. How much money constitutes MovementDAO assets, how much
2 money is not MovementDAO assets.

3 THE COURT: I thought that's what we were going to get.

4 MR. BERG: I thought so too.

5 MR. SINGH: I provided --

6 MR. BERG: I'm sorry. And then what I need is anything
7 that's not currently within the control of defendants or the
8 MovementDAO entity; right? Where did that go? And how much?

9 THE COURT: Right.

10 MR. BERG: That's all I need.

11 THE COURT: Who was paid?

12 MR. SINGH: Your Honor, we have provided an accounting,
13 and we are, again, prepared to provide that again today.

14 THE COURT: Okay.

15 MR. SINGH: It is going to be this complex accounting.
16 We're happy to send it over once it's finalized today.

17 THE COURT: Yeah, let's take that.

18 MR. SINGH: Okay.

19 THE COURT: Now, if you want to do a separate
20 accounting once you've restored everything in 15 days, that's
21 fine too.

22 MR. SINGH: Okay, Your Honor.

23 THE COURT: But at least that will give us something to
24 compare it to.

25 MR. SINGH: And, Your Honor, we're only able to restore

1 within approximately 15 days if we are granted permission to
2 take this path. Now, if the Court would, instead, like to us
3 to first reach out to Coinbit -- I'm sorry -- reach out to
4 Robinhood and see --

5 THE COURT: Yes.

6 MR. SINGH: -- if the restriction can be lifted --

7 THE COURT: Yes.

8 MR. SINGH: -- then we can't commit to returning
9 everything within 15 days because there are a series of
10 transfers that have to happen.

11 THE COURT: Right.

12 MR. SINGH: Every time a transfer has been made, there
13 has to be a settlement process before the bank will allow us to
14 release those funds.

15 THE COURT: Okay.

16 MR. SINGH: And so that takes time.

17 THE COURT: But you can commit to reporting to the
18 Court within 15 days. So let's leave --

19 MR. SINGH: Okay. Yes.

20 THE COURT: Let's do that. Right? So that I will know
21 what the status is. We will all know what the status is,
22 whether you have been able to get Robinhood to simply send the
23 money directly back.

24 MR. SINGH: Of course, Your Honor.

25 THE COURT: Okay? Or if not, what has been happening

1 since; and I will know.

2 Okay. Well, here is the more difficult question,
3 though. And as an attorney, I understand that you're in a
4 difficult situation, but how are you authorized, Mr. Singh, to
5 be paid out of MovementDAO funds? That's -- that's a surprise
6 to me. I mean, we've got two individuals who are being
7 personally sued. Why aren't they paying for their own
8 representation?

9 MR. SINGH: Well, Your Honor, I think multiple points
10 there. First, the GitBook and the MIPS provided for
11 indemnification of my clients. And they relied on those
12 indemnification provisions to take money from the Gnosis for
13 their --

14 THE COURT: For legal services on their own personal
15 behalf.

16 MR. SINGH: It was legal services for claims incurred
17 in relation to the services they provided to MovementDAO. So
18 it was not simply --

19 THE COURT: There is somewhere that says that, that
20 they can do that?

21 MR. SINGH: Sure, Your Honor. There is indemnification
22 provisions in the GitBook as well as in the MIPS.

23 THE COURT: I see.

24 MR. SINGH: They were relying on those provisions when
25 seeking indemnification funds.

1 THE COURT: Okay. And that is obviously under question
2 right now.

3 MR. SINGH: Yes.

4 THE COURT: That is the whole lawsuit.

5 MR. SINGH: Yes, Your Honor.

6 And the second part of this is our fund -- our firm
7 accepted those funds without knowledge of the TRO because it
8 hadn't been issued yet. We engaged in an arm's length
9 transaction with defendants when receiving those funds which,
10 admittedly, were a deposit. But had we not received a deposit
11 of that nature, we wouldn't have agreed to accept defendants as
12 clients because of the complexity of this dispute and the
13 appreciation that this was going to be a dispute that incurred
14 significant fees.

15 And so it was an arm's length transaction. We were
16 bona fide purchasers with respect to that agreement, and we had
17 no knowledge that the TRO had issued because it hadn't been
18 issued.

19 THE COURT: Understood. But now it's been issued, and
20 now we all understand that that really is the basis of the
21 lawsuit. It seems to me that your client ought to pay you --
22 and your client is Mark Phillips and --

23 MR. BERG: Ben Reed.

24 THE COURT: -- and Ben Reed; correct?

25 MR. SINGH: And MovementDAO as well, Your Honor.

1 THE COURT: MovementDAO is not a party.

2 MR. SINGH: We have filed counterclaims on behalf of
3 MovementDAO.

4 THE COURT: Oh, that is true, there's counterclaims.

5 MR. SINGH: We do represent MovementDAO.

6 THE COURT: But then we don't have authority -- or
7 there is no clear authority. There is a dispute that
8 MovementDAO even has the authority to pay you. So now you've
9 found yourself in the middle of a lawsuit yourself.

10 So at this point we know how much you have. It's
11 \$300,000.

12 MR. SINGH: Yes, Your Honor.

13 THE COURT: Certainly, if the TRO is properly followed,
14 and -- in this case nothing else comes out of MovementDAO to
15 pay you going forward, and there is a possibility that what you
16 have been paid wasn't properly authorized. And -- and I'm
17 concerned, as I'm sure you very much are concerned. I think
18 that you will need to sit down and have that discussion with
19 your client, Mr. Phillips and Mr. Reed, and determine how they
20 want to go forward from here.

21 But to authorize any further payments from MovementDAO
22 is not possible until the entire lawsuit is determined.

23 MR. SINGH: Understood, Your Honor.

24 THE COURT: All right. And not that I don't feel your
25 pain, I do, but you'll need to have a discussion with them

1 about how they want to proceed.

2 MR. SINGH: Understood, Your Honor.

3 THE COURT: Okay. All right. Anything else for today?
4 I think that should do it.

5 MR. BERG: One small point. I asked this clarification
6 on meet and confer.

7 The thing about bona fide purchasers, they stopped
8 being bona fide purchasers when they have notice. And what I
9 would like to know is, how much in legal fees have been
10 expended from that 300,000 prior to the TRO that Mr. Singh just
11 admitted they didn't know anything about before February 28th?
12 It's probably not a lot. And if that's true --

13 THE COURT: We've spent so much time here, and we're
14 only spending more every minute.

15 MR. BERG: You are so right. I promise it will be it.

16 If that's true, then Mr. Singh was on notice that he
17 was not supposed to spend any of that money once the TRO was
18 issued. That should just come right back. And that should
19 not -- that's pretty straightforward, Your Honor.

20 MR. SINGH: Your Honor, our position there -- and we
21 have touched briefly on this in our motion. The amount -- the
22 exact amount we have spent, we believe, is privileged and we
23 have not closed that. We will acknowledge that the full amount
24 of that initial deposit wasn't spent from the, kind of,
25 February 13th to February 28th period. But we did incur

1 significant fees during that period because my clients were
2 preparing to sue plaintiffs and then ended up defending the
3 lawsuit.

4 And, second, as I mentioned earlier, had we not that
5 deposit in the bank, we would not have agreed to represent
6 defendants.

7 THE COURT: So let me say this with respect to that
8 amount. This is an attorney with a trust account. And I
9 assume if he hasn't actually earned the money, he is not going
10 to draw it down; right?

11 Now, based on the fact that he's a member of the Bar,
12 just like us, we would expect that kind of behavior from him.

13 Now, if you -- at the end of the lawsuit, it is
14 determined that this money was not properly authorized to be
15 removed from MovementDAO, I also feel confident, and as a
16 member of the Bar, you know that you're obligated to return it
17 all.

18 MR. SINGH: Very much understood, Your Honor.

19 THE COURT: All right. So I don't know that I need to
20 go into that -- that this moment, to find out how much he has
21 earned or hasn't earned. He is going to have to give us that
22 accounting at some point, if that's the -- the way the lawsuit
23 comes out.

24 MR. BERG: Your Honor, I think you do. The TRO issues
25 on February 28th, and it says defendants' attorneys return

1 money that they have from DAO endowment assets. That's -- if
2 it was unspent, that needs to come right back.

3 THE COURT: Okay. Let me look.

4 MR. BERG: On page 5 of the TRO, subparagraph C.

5 THE COURT: "Defendants, their agents, employees,
6 attorneys, and any persons in active concert or participation
7 with them are further ordered to unwind any transfers that have
8 been made in the last 30 days."

9 So was the transfer made within the last 30 days of
10 this order?

11 MR. BERG: Yes, it was, Your Honor.

12 MR. SINGH: Yes, Your Honor. It was made, as we noted,
13 February 13th, prior to the TRO being issued.

14 THE COURT: But within the last 30 days.

15 MR. SINGH: That's the issue we're facing, Your Honor.
16 We received that deposit and accepted this engagement without
17 notice of the TRO. And had it not been for that payment, we
18 wouldn't have accepted this case.

19 THE COURT: Okay. So then you definitely need to have
20 a talk with your client about them paying for your costs
21 because, according to this order, you would need to unwind any
22 transfer made in the last 30 days, and that would be you.

23 MR. SINGH: Yes, Your Honor. That's why we're seeking
24 clarification. Because when we -- when we initially raised
25 this issue before Judge Altman, he indicated that we would need

1 to provide an accounting, and that's the portion of that
2 transcript that I provided in the motion. And so we are now
3 seeking clarification from you, Your Honor. Whether we can
4 pull that money and under -- acknowledge here on the record
5 that we will be responsible for it at the conclusion of this
6 action --

7 THE COURT: Uh-huh.

8 MR. SINGH: Or if Court's order is that we immediately
9 return the full amount now, or a portion thereof, and, again,
10 the issue with the portion thereof is that we believe
11 that's -- that's privileged information.

12 THE COURT: Okay. Well, it may be privileged, but it
13 seems that you would have to, at least, unwind the transfers
14 and any portion that you haven't earned. And you may even have
15 to --

16 MR. BERG: I haven't heard "since getting notice."

17 THE COURT: Since getting notice.

18 And then you may have to eventually give back the rest.
19 So you definitely want to speak to your clients about how
20 they're going to compensate you going forward --

21 MR. SINGH: So the Court --

22 THE COURT: -- from -- from the date that you received
23 that court order.

24 MR. SINGH: Okay, Your Honor. So I just want to be
25 explicitly clear. Is it the Court's order that we should

1 return that money within a certain time period?

2 THE COURT: Yes.

3 MR. SINGH: Okay. And we will just request time
4 because we will need to, as a fund, understand how we're going
5 to put that money together and then return it in cryptocurrency
6 form or unwind that transaction.

7 THE COURT: You can report to me in 15 days on that as
8 well.

9 MR. SINGH: Thank you, Your Honor.

10 THE COURT: Okay. Yeah, I think plaintiff has a point.
11 It doesn't except attorney's fees. It says "actually
12 attorney's."

13 All right. Okay. So you will report to me in 15 days
14 with respect to that as well.

15 MR. BERG: And, Your Honor, we will submit a response
16 to the motion in 10 days with our update about the Robinhood
17 contacts.

18 THE COURT: Okay. Very good. So a response to the --

19 MR. BERG: The expedited motion.

20 THE COURT: -- the expedited motion. Okay. And
21 15 days will be the accounting.

22 Okay. Thank you. Thank you, Counsel.

23 (These proceedings concluded at 3:32 p.m.)

24

25

C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

DATE: 06-08-2023

/s/Laura Melton

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